

# **For the Good of All: The REALTOR® Code of Ethics**



**A survey of the  
REALTOR® Code of Ethics  
and  
Professional Standards**

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**2020**

**The REALTOR® Code of Ethics:**

- protects the buying and selling public.
- promotes a competitive real estate marketplace.
- enhances the integrity of the industry.
  - is your promise of performance.
  - is your promise of professionalism.

Most of the material in this manual is taken, with permission, from the  
National Association of REALTORS® (NAR)  
Code of Ethics and Arbitration Manual (CEAM).

This manual is revised by the NAR each year  
and may be purchased from NAR.

REALTORS® may access the contents  
of the entire manual at

**[www.nar.realtor](http://www.nar.realtor)**

<https://www.nar.realtor/code-of-ethics>

Course:  
2504

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## **REALTOR® Code of Ethics Training Requirement**

### **NOTE:**

Effective January 1, 2001, the REALTOR® Code of Ethics training requirement was established and initially was required every four (4) years.

As of January 1, 2017, this requirement became every two (2) years.

Then, in late 2019 the NAR Board of Directors voted to amend the 2-year cycle to a 3-year cycle and to extend the current cycle by 1-year.

**Thus, the current REALTOR® Code of Ethics training cycle is  
January 1, 2019 to December 31, 2021.**

A REALTOR® completing the new member Code of Ethics orientation during any Code cycle shall not be required to complete additional ethics training in respect to this requirement until a new three (3) year cycle commences.

Failure to complete the required periodic ethics training shall be considered a violation of a membership duty for which REALTOR® membership shall be suspended “for a period of not less than 30-days and not longer than one year, on terms and conditions expressly stated for an established period of time.”

## **Learning Objectives for NAR’s 3-year Code of Ethics Cycle Current Code cycle is January 1, 2019 to December 31, 2021**

### **At the conclusion of this program, each licensee will be able to:**

1. Identify at least two aspirational concepts in the Preamble to the Code of Ethics, describe the concept of general business ethics, identify how the Code of Ethics compares and contrasts with the concept of general business ethics, including professional conduct, courtesies, business etiquette, and real-life scenarios (the underlined is newly required as of 2022).
2. Describe the concepts of at least two of the following Articles of the Code of Ethics:  
**1, 2, 3, 9, 11, 12, 16 & 17.**
3. Identify possible violations of the Code of Ethics, specifically related to at least one of the two Articles selected in Objective #2 after participating in interactive learning methods such as case studies, quizzes, role play, and group discussion of fact scenarios.
4. Briefly describe the professional standards enforcement process of the board or association.



## A Brief History Lesson

The National Association of Realtors® was formed in 1908 and was called The National Association of Real Estate Exchanges. The Code of Ethics of the National Association of Realtors® was first adopted on July 29, 1913, at the sixth Annual Convention of the National Association of Real Estate Exchanges (Association's name changed in 1916 to National Association of Real Estate Boards and again in 1974 to National Association of Realtors®). The Code was first adopted as "Rules of Conduct" to be recommended to real estate boards for voluntary adoption. Compliance with the Code was made a condition of membership in the National Association in 1924 and has remained so to date.

The establishment of a Code of Ethics recognizing high standards of business practice and professional conduct by real estate practitioners was a primary reason for the establishment of the National Association in 1908. Men of integrity wanted to ensure honorable, faithful, and competent service to clients, customers, and other members of the public. They believed that through their collective efforts the ends of national policy and the general welfare could be served. The history of their early meetings clearly reflects the desire to avoid careless "horseback" or uninformed advice to those who relied upon them and to avoid the use of special knowledge to prey upon the unsuspecting and unsophisticated. They sought to make the broker recognize the truly fiduciary relationship the broker has with the client and to assure service of a professional quality in all respects. They had an awareness, too, that a voluntary commitment to peer review by knowledgeable, informed men and women sharing the same commitment had immeasurable advantages over resort to courts of law and equity. Most of all, they recognized that self-discipline in the interest of protecting the public was not inconsistent with the preservation of a competitive marketplace.

Author Pearl Janet Davies in her *History of Real Estate in America* records that Edward S. Judd, 1912 President of the National Association, in accepting the presidency, "asked for a formal commitment by the voting body to a specific, written Code of Ethics. Himself a lawyer, he described the projected Code as 'similar to that of the American Bar Association' then recently approved and adopted by many local Bar Associations. 'A Committee on the Code of Ethics,' he announced, 'is expected to report at the next Convention for adoption and recommendation to all local Boards a definite Code of Ethics, a Code which shall be as the Ten Commandments to the real estate fraternity.'" Author Davies notes that the following year, on July 29, 1913, it was Judd who put the motion for the Code. "The motion," he said, "is for the adoption of the Rules of Conduct and that a recommendation be sent to the local Boards that they be adopted as much as possible; and they be taken as the Code of Ethics of the National Association, and their adoption recommended everywhere as far as possible." The motion was carried by voice vote amidst applause. A delegate rose to say, "We have heard many important things here, but nothing else is so important as the adoption of this resolution." Thus, according to Pearl Davies, "The national real estate organization may claim to be the second trade or business group in the United States to follow examples of the professions of medicine, law, and engineering in formulating a Code of Ethics."

The first paragraph of that historic code for real estate practice, adopted in 1913, established the tone for the 23 separate ethical precepts which followed and for all subsequent versions of the Code. It read: "The real estate agent should be absolutely honest, truthful, faithful, and efficient. He should bear in mind that he is an employee—that his client is his employer and is entitled to the best service the real estate man can give—his information, talent, time, services, loyalty, confidence, and fidelity." The Code of Ethics of the National Association has survived as a viable and relevant guide because it is a living document. As times have changed, new needs and insights have been recognized and, as the law has developed, the Code has been amended - approximately 45 times since its adoption.

## Since the adoption of ...

the Code of Ethics of the National Association in 1913, thousands of disciplinary hearings and arbitration hearings have been conducted by Realtors® in the interest of protecting the public. The objective of such hearings in each case was to promote honesty, integrity, fairness, and competency, and to resolve controversies on the basis of the informed judgment of one's peers. The hearings have provided justice that has been both timely and economic. They have relieved overburdened civil courts and yet have resolved charges against Realtors® effectively and without the distortion and injury to reputation that so often attends litigation. In January 1982, Chief Justice Warren Burger of the U.S. Supreme Court strongly endorsed arbitration as an alternative to litigation to resolve controversies. This basic principle has been followed by Realtors® and Realtor-Associate®s of America for many years.

Article 14 of the Code of Ethics obligates Realtors® and Realtor-Associate®s to place all pertinent facts before the proper tribunal of the Member Board or any institute, society, or council of which they are members if they are charged with unethical practice or are asked to present evidence in any disciplinary proceeding or investigation.

The Realtor® or Realtor-Associate® is expected to abide by the decision of the Board as rendered, once all appeal remedies have *Code of Ethics and Arbitration Manual 4* been exhausted. If a member refuses to accept a disciplinary decision after appeal, even then, before imposing the sanctions of suspension or expulsion, the Board will, if there remains any doubt as to the legal propriety of the judgment, make such sanctions effective only upon entry of final judgment in a court of competent jurisdiction in a suit by the Board for declaratory judgment declaring that the suspension or expulsion violates no rights of the member. As a viable, living, developing guide for Realtors®, the Code will continue to provide the protection the public deserves and requires.

**The National Association of Realtors® and the respective State Associations and Member Boards of Realtors® are committed and pledged to such protection.**

# Section One – Quiz One:

## The Code of Ethics Summation

**Instructions:** Read each statement and select the Article of the Code of Ethics from the list below that the statement most closely describes.

Write the correct Article number in the space next to each statement.

Each Article is to be selected only once.

**Choose from Articles: 1 – 2 – 3 – 4 – 5 – 6 – 7 – 8 – 9 – 10 – 11 – 12 – 13 – 14 – 15 – 16 – 17**

1. Protect and promote your client's interests, but be honest with all parties. \_\_\_\_\_
2. Cooperate with other real estate professionals to advance your client's best interests. \_\_\_\_\_
3. Disclose present or contemplated interest in any property to all parties. \_\_\_\_\_
4. Accept compensation from only one party, except with full disclosure and informed consent. \_\_\_\_\_
5. Assure, whenever possible, that transactional details are in writing. \_\_\_\_\_
6. Avoid exaggeration, misrepresentation, and concealment of pertinent facts.  
Do not reveal facts that are confidential under the scope of your agency relationship. \_\_\_\_\_
7. When buying or selling, make your position in the transaction or interest known. \_\_\_\_\_
8. Avoid side deals without your client's informed consent. \_\_\_\_\_
9. Keep the funds of clients and customers in escrow. \_\_\_\_\_
10. Arbitrate and mediate contractual disputes with other REALTORS and with your clients \_\_\_\_\_
11. Ensure that your comments about other real estate professionals are truthful, and not misleading. \_\_\_\_\_
12. Do not engage in the unauthorized practice of law. \_\_\_\_\_
13. Be knowledgeable and competent in the fields of practice in which you ordinarily engage. Obtain assistance or disclose lack of experience if necessary. \_\_\_\_\_
14. Respect the exclusive representation or exclusive brokerage relationship agreements that other REALTORS have with their clients. \_\_\_\_\_
15. Be a willing participant in Code enforcement procedures. \_\_\_\_\_
16. Communicate honestly and present a true picture in your advertising, marketing and other public representations. \_\_\_\_\_
17. Provide equal service to all clients and customers. \_\_\_\_\_

**NOTE:** The statements in this exercise do not fully represent the comprehensive ethical principles of each Article of the Code of Ethics. To gain a full understanding of the principles of the REALTORS® Code of Ethics, each Article must be read and understood in its entirety.

## Section One – Quiz Two: The Code of Ethics Generally

- |   |        |
|---|--------|
| 1. Only REALTORS® (and, where applicable, REALTOR-ASSOCIATES®) are subject to the Code of Ethics.   | T    F |
| 2. The authority to conduct arbitration is established in Article 17.   | T    F |
| 3. When the Code of Ethics and state law conflict, law takes precedence.  | T    F |
| 4. The NAR Board of Directors must approve changes to the Code of Ethics; the NAR Delegate Body must approve any changes to any specific Article.               | T    F |
| 5. The Code of Ethics is divided into three major sections, titled: "Duties to Clients and Customers," "Duties to the Public," and "Duties to Community".       | T    F |
| 6. The Standards of Practice support, interpret, and amplify their respective Articles.   | T    F |
| 7. First adopted in 1913, the purpose of the Code of Ethics was to establish a professional standard of conduct for real estate practitioners.                  | T    F |
| 8. The official "Interpretations of the Code of Ethics" are specific fact situations that explain the Articles and Standards of Practice of the Code of Ethics. | T    F |
| 9. Only REALTORS® may file ethics complaints and make requests for arbitration.   | T    F |
| 10. The Code of Ethics always has required that REALTORS® respect other brokers' exclusive relationships.   | T    F |
| 11. The first Code of Ethics was based on license laws.   | T    F |
| 12. Procuring cause is the determining factor in ethics cases.  | T    F |
| 13. The Preamble to the Code of Ethics, if violated, may be the basis for disciplinary action.  | T    F |
| 14. The Code of Ethics includes 17 Articles that are broad statements of ethical principles.  | T    F |
| 15. Enforcing the Code of Ethics rests with each state's regulatory body and each local association of REALTORS®.   | T    F |
| 16. Ethics complaints often are based on disputes between REALTORS® of different firms over referral fees.  | T    F |
| 17. The Code requires REALTORS® to present a true picture in all of their representations.  | T    F |

- |   |   |   |
|---|---|---|
| 18. Article 4 of the Code prohibits exaggeration, misrepresentation, and concealment of pertinent facts about the property or the transaction.  | T | F |
| 19. Disciplinary action in an ethics hearing can include a fine of no more than \$1,000.  | T | F |
| 20. The standard of proof in an ethics hearing is a “preponderance of the evidence.”  | T | F |
| 21. The ethics and arbitration enforcement processes include an initial screening by a grievance committee.   | T | F |
| 22. A mediator determines entitlement to compensation in an arbitration hearing.  | T | F |
| 23. Either mediation or use of an ombudsman is the preferred dispute resolution system of the NATIONAL ASSOCIATION OF REALTORS®   | T | F |
| 24. The “Pathways to Professionalism” document features a list of professional courtesies and etiquette that may be voluntarily followed by REALTORS®.  | T | F |
| 25. The Code of Ethics is what sets REALTORS® apart from other real estate professionals, because it establishes a higher level of performance and professionalism.   | T | F |
| 26. Every Association must designate a person or entity responsible for administration of professional standards processes and, such person must complete training every four (4) years on professional standards administration as established by NAR.   | T | F |
| 27. Where the Grievance Committee receives ethics complaints and arbitration requests to determine if, taken as true on their face, a hearing is to be warranted, the Professional Standards Committee is similar to a court in that it makes decisions on matters involving ethics or arbitration. | T | F |
| 28. The procedures by which arbitration requests are received, hearings are conducted, and awards are made must be in strict conformity with state law.   | T | F |
| 29. The advent of “buyer agency” eliminated the need for “procuring cause” because the agent that has the buyer agency agreement with a buyer is “automatically protected.”   | T | F |
| 30. An Association may publish the fact that a REALTORS® member’s membership has been suspended.  | T | F |
| 31. There is no predetermined rule of entitlement to the payment of compensation (a commission) in an arbitration case.   | T | F |
| 32. An arbitration hearing panel should consider the entire course of events and conduct of all parties that are involved in the arbitration case.  | T | F |

NOTE:

Both quizzes are taken, in part, and with permission, from:  
 NAR’s “The Code of Ethics: Our Promise of Professionalism,  
 The REALTORS® Code of Ethics Training Requirement Education Program – Third Cycle.  
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## **Pathways to Professionalism**

These professional courtesies are intended to be used by REALTORS® on a voluntary basis, and cannot form the basis for a professional standards complaint.

### **Respect for the Public**

1. Follow the “Golden Rule” -- Do unto others as you would have them do unto you.
2. Respond promptly to inquiries and requests for information.
3. Schedule appointments and showings as far in advance as possible.
4. Call if you are delayed or must cancel an appointment or showing.
5. If a prospective buyer decides not to view an occupied home, promptly explain the situation to the listing broker or the occupant.
6. Communicate with all parties in a timely fashion.
7. When entering a property, ensure that unexpected situations, such as pets, are handled appropriately.
8. Leave your business card if not prohibited by local rules.
9. Never criticize property in the presence of the occupant.
10. Inform occupants that you are leaving after showings.
11. When showing an occupied home, always ring the doorbell or knock -- and announce yourself loudly -- before entering. Knock and announce yourself loudly before entering any closed room.
12. Present a professional appearance at all times; dress appropriately and drive a clean car.
13. If occupants are home during showings, ask their permission before using the telephone or bathroom.
14. Encourage the clients of other brokers to direct questions to their agent or representative.
15. Communicate clearly; don't use jargon or slang that may not be readily understood.
16. Be aware of and respect cultural differences.
17. Show courtesy and respect to everyone.
18. Be aware of -- and meet -- all deadlines.
19. Promise only what you can deliver -- and keep your promises.
20. Identify your REALTOR® and your professional status in contacts with the public.
21. Do not tell people what you think -- tell them what you know.

### **Respect for Property**

1. Be responsible for everyone you allow to enter listed property.
2. Never allow buyers to enter listed property unaccompanied.
3. When showing property, keep all members of the group together.
4. Never allow unaccompanied access to property without permission.
5. Enter property only with permission even if you have a lockbox key or combination.
6. When the occupant is absent, leave the property as you found it (lights, heating, cooling, drapes, etc.). If you think something is amiss (e.g. vandalism) contact the listing broker immediately.
7. Be considerate of the seller's property. Do not allow anyone to eat, drink, smoke, dispose of trash, use bathing or sleeping facilities, or bring pets. Leave the house as you found it unless instructed otherwise.
8. Use sidewalks; if weather is bad, take off shoes and boots inside property.
9. Respect sellers' instructions about photographing or videographing their properties' interiors and exteriors.

### **Respect for Peers**

1. Identify your REALTOR® and professional status in all contacts with other REALTORS®.
2. Respond to other agents' calls, faxes, and e-mails promptly and courteously.
3. Be aware that large electronic files with attachments or lengthy faxes may be a burden on recipients.
4. Notify the listing broker if there appears to be inaccurate information on the listing.
5. Share important information about a property, including the presence of pets, security systems, and whether sellers will be present during the showing.
6. Show courtesy, trust, and respect to other real estate professionals.
7. Avoid the inappropriate use of endearments or other denigrating language.
8. Do not prospect at other REALTORS®' open houses or similar events.
9. Return keys promptly.
10. Carefully replace keys in the lockbox after showings.
11. To be successful in the business, mutual respect is essential.
12. Real estate is a reputation business. What you do today may affect your reputation - and business - for years to come.

Revised 11.13



# Section TWO

## Professional Standards Enforcement

This section is *not* intended to be a complete “course” on the Professional Standards Enforcement Procedures as it is a *brief* description of the Professional Standards enforcement process, including the following concepts:

1. The difference between the Grievance Committee as an initial screening committee and the Professional Standards/Arbitration Committee as the decision making committee.
2. The difference between an ethics complaint which deals with a member’s conduct and an arbitration petition which deals with a money dispute between REALTORS®.
3. The basic steps in processing an ethics complaint and an arbitration petition; that is, a written submission to the Grievance Committee, and if the complaint/petition meets the standards set out by the procedures, the forwarding of the complaint/petition to the Professional Standards/Arbitration Committee for a full hearing.
4. The types of discipline which may be imposed for a violation of the Code of Ethics.

### I. Basic Difference Between Ethics & Arbitration

#### What’s the difference between an ethics complaint and arbitration request?

An **ethics** complaint charges that a REALTOR® or REALTOR-ASSOCIATE® has violated an Article(s) of the Code of Ethics.

An **arbitration** request involves a dispute over entitlement to a monetary transaction (e.g., a commission).

#### Who can file an ethics complaint?

Any person, whether a member or not, having reason to believe that a member is in violation of any conduct subject to disciplinary action.

#### Who can file an arbitration request?

A customer, client, or REALTOR® principal. A REALTOR® non-principal can also request arbitration with his current or former REALTOR® principal.

#### Is there a time limit?

Yes. An ethics complaint must be filed within one hundred eighty (180) days after the facts constituting the matter could have been known in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later. (Amended 5/11)

Request for arbitration must be filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later.

**Who should I give the complaint or request to?**

The Executive Officer/Secretary of the board/association of REALTORS®.

**What should be included with the ethics complaint or arbitration request?**

**Ethics** – An ethics complaint form must be completed and filed. In addition, a written statement of the facts (with appropriate documentation, if any) on which the complaint is based must also be included, dated, and signed by the complainant. The appropriate Article(s) as they pertain to the facts in the alleged violation must be cited in the complaint.

**Arbitration** – An arbitration request form must be completed and submitted with details of the dispute and the deposit as set by the board (not to exceed \$500, which may be refundable if the requestor is found to be the prevailing party). In addition, include whatever documentation that may help to substantiate your position.

**Are there certain Articles that can or can't be cited?**

Only Articles 1 through 17 may be the basis of a complaint. The Preamble is aspirational and establishes ideals that a REALTOR® should strive to attain. Because of its subjective nature, the Preamble may not be used as a basis for charges of alleged unethical conduct or as the basis for disciplinary action.

**Can Standards of Practice be cited in an ethics complaint?**

No. Standards of Practice may be cited only in support of the Article(s) that was allegedly violated.

**Are there issues or complaints that should not be brought before a board/association of REALTORS®?**

Yes. A charge of violating the law or State real estate regulations is not a matter that would be considered by the board/association of REALTORS®. Also, the board/association is not a court of law where criminal or civil issues are resolved.

**Is submitting to arbitration mandatory?**

It depends on the circumstances. A REALTOR® may be obligated to arbitrate, or he/she may have a choice as to whether or not to voluntarily participate in an arbitration proceeding conducted by the board/association of REALTORS®.

**When is arbitration mandatory/voluntary?**

**Mandatory** – when the dispute is between: 1) REALTORS® who are principal brokers\* in different firms; 2) clients and REALTOR® principals.

**Voluntary** – When the dispute is between: 1) Members in the same firm; 2) a REALTOR® who is a principal broker, and a non-member principal broker in another firm; 3) customers and REALTOR® principals. [\* “Principal Broker” means: A principal, partner, corporate officer, or branch office manager of a real estate firm.]

**Standard of Proof**

**Ethics:** In an ethics hearing, the ultimate burden of proving that the Code of Ethics or other membership duty has been violated is at all times the responsibility of the Complainant. And the standard of proof on which an ethics hearing decision is based shall be a “clear, strong, and convincing” standard. “Clear, strong, and convincing” shall be defined as that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established.

**Arbitration:** In an arbitration hearing, the ultimate burden of proving that an award should be issued to the requesting party, is at all times the responsibility of the Complainant. And the standard of proof on which an arbitration hearing decision is based shall be “preponderance of the evidence” standard. “Preponderance of the evidence” shall be defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the facts sought to be proved are more probable than not.

## II. Function of Grievance vs. Professional Standards Committee

### The Grievance Committee:

1. Is a separate & distinct committee from the Professional Standards Committee.
2. Functions to prevent abuse and harassment through unwarranted and frivolous complaints.
3. Functions similar to a Grand Jury in the judicial system.
4. Provides an initial review or “screening” function of complaints.
5. Does NOT hold hearings.
6. Does NOT decide or determine the innocence or guilt of any party.
7. Only function is to determine whether or not a complaint is worthy of being sent to the Professional Standards Committee for a hearing.
8. Can cite additional Articles, in addition to those listed in the original complaint.
9. Is allowed to provide assistance to a member of the public in completing complaint forms when such assistance is needed.
10. With respect to money issues (arbitration), determines whether the matter brought before it is arbitrable or not arbitrable and, if found to be arbitrable, this committee must determine whether the arbitration is voluntary or mandatory (as based upon the requirements established in the NAR *Code of Ethics and Arbitration Manual*).

### The Professional Standards Committee:

1. Conducts hearings of both ethics complaints and arbitration disputes.
2. Determines “guilt” or “innocence” of the respondent by a majority vote.
3. Decisions must be in writing and must contain findings of fact and a statement of the disciplinary action recommended, if any.
4. Is NOT allowed to award money “damages” in an ethics proceeding.

**NOTE: When there is a complaint that involves both an ethics violation and a request for arbitration, the dual complaint must be separated and the arbitration petition is to be heard prior to hearing the ethics charges.**

## III. Ethics General Provisions

### A. Purpose of an Ethics Proceeding

An ethics proceeding has two essential purposes: education and vindication. It is educational in that it raises the consciousness of members to the meaning and significance of the Code. Many ethics violations occur inadvertently or through ignorance, and the hearing proceeding serves as an effective educational tool.

In filing a charge of an alleged violation of the Code of Ethics by a REALTOR®, the charge shall read as an alleged violation of one or more Articles of the Code. A Standard of Practice may be cited only in support of the charge. The Preamble is aspirational. Articles 1 through 17 establish specific obligations for which REALTORS® may be disciplined.

**B. Summation of  
Administrative Time Frames in Ethics Proceedings**

| <b>Situation</b>                             | <b>Time Table</b>   |
|--|---|
| <b>Grievance</b>                             |   |
| Complaint filed                              | 180 days . . .  |
| Response required / Number of days to submit | 15-days from request for response being transmitted if response solicited   |
| Complainant's appeal to Directors            | 20-days from transmittal of dismissal notice  |
| Directors review                             | Next meeting  |
| <b>Professional Standards</b>                |   |
| Respondent provides response                 | 15-days from request for response being transmitted; staff transmits response to the complainant within 5 days from receipt   |
| Challenge forms                              | 10-days to challenge from date forms transmitted to parties   |
| Panel named                                  | 5-days after challenge forms are due  |
| Hearing notice                               | 21-days in advance of hearing   |
| Complaint/response to panel                  | Board option  |
| Notice of witnesses and counsel              | 15-days before hearing to Board and other party   |
| Adjourned hearing                            | Not less than 15-days or more than 30 days from hearing   |
| Decision filed                               | Day of hearing, or no later than 48-hours after hearing   |
| Transmit decision                            | 5-days after decision filed with staff, except if it is necessary to obtain association counsel's review  |
| <b>Appeal</b>                                |   |
| Appeal filed                                 | 20-days after decision transmitted  |
| Preliminary review                           | Within 10-days after appeal transmitted to association  |
| Amendment received                           | Within 10-days of notice  |
| Appeal heard                                 | Next/special meeting giving 10 days minimum notice, but not later than 30-days after receipt of appeal; <i>Directors' written decision transmitted to parties within 5 days of appeal hearing</i> |

(Adopted 11/98; Revised 11/17)

### **C. Disciplinary Measures Available for Violations of the Code of Ethics**

The Association has wide latitude in the sanctions which may be applied for violations of the Code of Ethics. It must, however, act responsibly in the application of these sanctions, attempting always to make the punishment commensurate with the offense. Recommendations of Ethics Hearing Panels may range from a mild Letter of Warning to termination of membership as follows in order of severity, provided that such actions are specifically authorized in the Professional Standards procedures of the Associations Bylaws:

- (a) Letter of Warning with copy to be placed in member's file;
- (b) Letter of Reprimand with copy to be placed in member's file;
- (c) Requirement that member attend the ethics portion of the Board Indoctrination Course or other appropriate course or seminar specified by the Hearing Panel which the respondent could reasonably attend, taking into consideration cost, location, and duration;
- (d) Appropriate and reasonable fine not to exceed **\$15,000** (Amended 5/13);
- (e) Membership of individual suspended for a stated period not less than thirty (30) days nor more than one (1) year, with automatic reinstatement of membership in good standing at the end of the specified period of suspension. The thirty (30) day minimum and one (1) year maximum do not apply where suspension is imposed for a remediable violation of a membership duty (e.g., failure to pay dues or fees or failure to complete educational requirements). The Directors may order suspension unconditionally, or they may, at their discretion, give the disciplined member the option of paying to the Board, within such time as the Directors shall designate, an assessment in an amount fixed by the Directors, which may not exceed \$15,000 and which can be utilized only once in any three (3) year period, in lieu of accepting suspension. But, if the conduct for which suspension is ordered consists of failure to submit a dispute to arbitration, the Directors may not permit the disciplined member to avoid suspension without submitting to the arbitration in addition to paying the assessment, unless in the meanwhile the dispute has been submitted to a court of law without any objection by any party that it should be arbitrated; (Amended 11/13)
- (f) Expulsion of individual from membership with no reinstatement privilege for a specified period of one (1) to three (3) years, with reinstatement of membership to be by application only after the specified period of expulsion on the merits of the application at the time received (decision should be written clearly articulating all intended consequences, including denial of MLS participatory or access privileges); (Amended 4/96)
- (g) Suspension or termination of MLS rights and privileges may also be utilized. Suspension of MLS services may be no less than thirty (30) days nor more than one (1) year; termination of MLS services shall be for a stated period of one (1) to three (3) years; (Amended 5/02)
- (h) Realtors® who are not members of a Board from which they purchase the multiple listing service and their users and subscribers remain obligated under the Code of Ethics on the same terms and conditions as Realtor® and Realtor-Associate® members of that Board. Discipline that may be imposed may be the same as but shall not exceed the discipline that may be imposed on that Board's members. Boards entering into regional or reciprocal MLS agreements are encouraged to include provisions requiring signatory Boards to respect, to the extent feasible, decisions rendered by other Boards involving suspension or expulsion from membership or from MLS. (Amended 4/96)
- (i) Members may also be required to cease or refrain from continued conduct deemed to be in violation of the Code, or to take affirmative steps to ensure compliance with the Code, within a time period to be determined by the hearing panel. Where discipline is imposed pursuant to this subsection, the decision should also include additional discipline (e.g. suspension or termination of membership) that will be imposed for failure to comply by the date specified, and to continue to comply for a specified period not to exceed three (3) years from the date of required compliance. (Adopted 05/14)



In addition to imposing discipline, the Hearing Panel can also recommend to the Board of Directors that the disciplined member be put on probation. Probation is not a form of discipline. When a member is put on probation the discipline recommended by the Hearing Panel is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the Code of Ethics during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the member's record will reflect the fulfillment. The fact that one or more forms of discipline will be held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (Revised 05/14)

In addition to any discipline imposed, Boards and Associations may, at their discretion, impose administrative processing fees not to exceed \$500 against respondents found in violation of the Code of Ethics or other membership duties. Any administrative processing fee will be in addition to, and not part of, any disciplinary sanction imposed. Boards and Associations shall determine in advance when, and under what circumstances, administrative processing fees will be imposed so that imposition is a matter of administrative routine. (Revised 5/13)

## **IV. Arbitration General Provisions**

### **A. Purpose of an Arbitration Proceeding**

Boards and Associations of REALTORS® provide arbitration to resolve contractual issues and questions and specific non-contractual issues and questions that arise between members, between members and their clients, and, in some cases, between parties to a transaction brought about through the efforts of REALTORS®. Disputes arising out of any of the four above-referenced contractual relationships may be arbitrated, and the rules and procedures of Boards and Associations of REALTORS® require that certain types of disputes must be arbitrated if either party so requests. (Revised 11/96)

While issues between REALTORS® and their clients—e.g., listing broker/seller (or landlord) or buyer broker/buyer (or tenant)—are subject to mandatory arbitration (subject to the client's agreement to arbitrate), and issues between sellers and buyers may be arbitrated at their mutual agreement, in many cases such issues are resolved in the courts or in other alternative dispute resolution forums (which may also be administered by Boards or Associations of REALTORS®). The majority of arbitration hearings conducted by Boards and Associations involve questions of contracts between REALTORS®, most frequently between listing and cooperating brokers, or between two or more cooperating brokers. These generally involve questions of procuring cause, where the panel is called on to determine which of the contesting parties is entitled to the funds in dispute. While awards are generally for the full amount in question (which may be required by state law), in exceptional cases, awards may be split between the parties (again, except where prohibited by state law). Split awards are the exception rather than the rule and should be utilized only when Hearing Panels determine that the transaction would have resulted only through the combined efforts of both parties. It should also be considered that questions of representation and entitlement to compensation are separate issues. (Revised 11/98)

### **B. Procuring Cause**

One type of contract frequently entered into by REALTORS® is the listing contract between sellers and listing brokers. Procuring cause disputes between sellers and listing brokers are often decided in court. The reasoning relied on by the courts in resolving such claims is articulated in *Black's Law Dictionary*, Fifth Edition, definition of procuring cause:

*The proximate cause; the cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime object. The inducing cause; the direct or proximate cause. Substantially synonymous with "efficient cause." A broker will be regarded as the "procuring cause" of a sale, so as to be entitled to commission, if his efforts are the foundation on which the negotiations resulting in a sale are begun. A cause originating a series of events which, without break in their continuity, result in accomplishment of prime objective of the employment of the broker who is producing a purchaser ready, willing, and able to buy real estate on the owner's terms. Mohamed v. Robbins, 23 Ariz. App. 195, 531 p.2d 928, 930.*

Disputes concerning the contracts between listing brokers and cooperating brokers, however, are addressed by the National Association's Arbitration Guidelines promulgated pursuant to Article 17 of the Code of Ethics. While guidance can be taken from judicial determinations of disputes between sellers and listing brokers, procuring cause disputes between listing and cooperating brokers, or between two cooperating brokers, can be resolved based on similar though not identical principles. While a number of definitions of procuring cause exist, and a myriad of factors may ultimately enter into any determination of procuring cause, for purposes of arbitration conducted by Boards and Associations of REALTORS®, procuring cause in broker to broker disputes can be readily understood as the uninterrupted series of causal events which results in the successful transaction. Or, in other words, what "caused" the successful transaction to come about. "Successful transaction," as used in these Arbitration Guidelines, is defined as "a sale that closes or a lease that is executed." Many REALTORS®, Executive Officers, lawyers, and others have tried, albeit unsuccessfully, to develop a single, comprehensive template that could be used in all procuring cause disputes to determine entitlement to the sought-after award without the need for a comprehensive analysis of all relevant details of the underlying transaction. Such efforts, while well-intentioned, were doomed to failure in view of the fact that there is no "typical" real estate transaction any more than there is "typical" real estate or a "typical" REALTOR®.

## **C. When Arbitration is Mandatory vs. Voluntary**

### **1. Circumstances under which REALTORS® MUST submit to arbitration**

- (a) Every Realtor® of the Board who is a Realtor® principal, every Realtor® principal who participates in a Board's MLS where they do not hold Board membership and every nonmember broker or licensed or certified appraiser who is a Participant in the Board's MLS shall have the right to invoke the Board's arbitration facilities in any dispute arising out of the real estate business with a Realtor® principal in another real estate firm or with that firm (or both), or nonmember broker/appraiser or their firm (or both) who is a Participant in the Board's MLS. *(Revised 5/01)*
- (b) A Realtor® other than a principal or a Realtor-Associate® shall have the right to invoke the arbitration facilities of the Board in a business dispute with a Realtor® or Realtor-Associate® in another firm or with their firm (or both), whether in the same or a different Board, provided the Realtor® principal with whom he is associated joins in the arbitration request, and requests arbitration with the Realtor® principal of the other firm or with their firm (or both). Arbitration in such cases shall be between the Realtor® principals or their firms (or both). Realtor® nonprincipals and Realtor-Associate®s who invoke arbitration in this manner, or who are affiliated with a respondent and have a vested financial interest in the outcome, have the right to be present throughout the proceedings and to participate but are not considered to be parties. *(Amended 5/01)*
- (c) A client of a Realtor® principal may invoke the facilities of the Board in a business dispute with a Realtor® principal or the Realtor®'s firm (or both) arising out of an agency relationship or legally recognized non-agency relationship, provided the client agrees to be bound by the arbitration. In the event of such request and agreement the Board will arbitrate the dispute subject to the Board's right to decline arbitration based on the amount involved or the legal complexity of the dispute. A Realtor® principal may also invoke arbitration against his client but no arbitration may be held without the client's voluntary agreement to arbitrate and to be bound by the decision. *(Revised 11/17)*

**2. Circumstances under which arbitration is contingent upon the REALTORPPP®PPP's VOLUNTARY participation**

- (a) Realtors® and Realtor-Associate®s who are or were affiliated with the same firm shall have the right to invoke the arbitration facilities of the Board, provided each party voluntarily agrees to the arbitration in writing and the Board finds the matter properly subject to arbitration. This privilege as stated applies to disputes arising when the parties are or were affiliated with the same firm, irrespective of the time request is made for such arbitration. *(Amended 11/95)*
- (b) A Realtor® principal may invoke the arbitration facilities of the Board in a dispute arising out of the real estate business with a nonmember broker, provided each party agrees in writing to the arbitration and provided the Board finds the matter properly subject to arbitration. However, it shall be optional with the member as to whether he will submit to a claim to arbitration by a nonmember broker who is not an MLS Participant. A nonmember broker who is not an MLS Participant or nonmember salesperson may invoke the arbitration facilities of the Board of Realtors® in cases where they believe they have an arbitrable dispute with a Realtor®. Under these circumstances, Realtors® are not required to agree to or participate in arbitration. *(Revised 11/12)*
- (c) Business disputes between a Realtor® principal and a customer of the Realtor® principal may be arbitrated by the Board if a written contractual relationship has been created by a Realtor® principal between a customer and a client and provided all parties to the dispute (i.e., the customer and the Realtor®) agree in writing to arbitrate the dispute. *(Amended 11/95)*

**D. Factors for Consideration by Arbitration Hearing Panels**

The following factors are recommended for consideration by Hearing Panels convened to arbitrate disputes between brokers, or between brokers and their clients or their customers. This list is not all-inclusive nor can it be. Not every factor will be applicable in every instance. The purpose is to guide panels as to facts, issues, and relevant questions that may aid them in reaching fair, equitable, and reasoned decisions.

**Factor #1: No predetermined rule of entitlement**

Every arbitration hearing is considered in light of all of the relevant facts and circumstances as presented by the parties and their witnesses. "Rules of thumb," prior decisions by other panels in other matters, and other predeterminants are to be disregarded. (e.g., the "No Threshold" rule)

Procuring cause shall be the primary determining factor in entitlement to compensation. Agency relationships, in and of themselves, do not determine entitlement to compensation. The agency relationship with the client and entitlement to compensation are separate issues. A relationship with the client, or lack of one, should only be considered in accordance with the guidelines established to assist panel members in determining procuring cause. (Adopted 4/95)

**Factor #2: Arbitrability and appropriate parties**

While primarily the responsibility of the Grievance Committee, arbitration Hearing Panels may consider questions of whether an arbitrable issue actually exists and whether the parties named are appropriate to arbitration. A detailed discussion of these questions can be found in Appendix I to Part Ten, Arbitrable Issues.

**Factor #3: Relevance and admissibility**

Frequently, Hearing Panels are asked to rule on questions of admissibility and relevancy. While state law, if applicable, controls, the general rule is that anything the Hearing Panel believes may assist it in reaching a fair, equitable, and knowledgeable decision is admissible.

Arbitration Hearing Panels are called on to resolve contractual questions, not to determine whether the law or the Code of Ethics has been violated. An otherwise substantiated award cannot be withheld solely on the basis that the Hearing Panel looks with disfavor on the potential recipient's manner of doing business or even that the panel believes that unethical conduct may have occurred. To prevent any appearance of bias, arbitration Hearing Panels and procedural review panels shall make no referrals of ethical concerns to the Grievance Committee. This is based on the premise that the fundamental right and primary responsibility to bring potentially unethical conduct to the attention of the Grievance Committee rests with the parties and others with firsthand knowledge. At the same time, evidence or testimony is not inadmissible simply because it relates to potentially unethical conduct. While an award (or failure to make a deserved award) cannot be used to "punish" a perceived "wrongdoer", it is equally true that Hearing Panels are entitled to (and fairness requires that they) consider all relevant evidence and testimony so that they will have a clear understanding of what transpired before determining entitlement to any award. (Amended 11/96)

***Factor #4: Communication and contact — Abandonment or Estrangement***

Many arbitrable disputes will turn on the relationship (or lack thereof) between a broker (often a cooperating broker) and a prospective purchaser. Panels will consider whether, under the circumstances and in accord with local custom and practice, the broker made reasonable efforts to develop and maintain an ongoing relationship with the purchaser. Panels will want to determine, in cases where two cooperating brokers have competing claims against a listing broker, whether the first cooperating broker actively maintained ongoing contact with the purchaser or, alternatively, whether the broker's inactivity, or perceived inactivity, may have caused the purchaser to reasonably conclude that the broker had lost interest or disengaged from the transaction (abandonment). In other instances, a purchaser, despite reasonable efforts by the broker to maintain ongoing contact, may seek assistance from another broker. The panel will want to consider why the purchaser was estranged from the first broker. In still other instances, there may be no question that there was an ongoing relationship between the broker and purchaser; the issue then becomes whether the broker's conduct or, alternatively, the broker's failure to act when necessary, caused the purchaser to terminate the relationship (estrangement). This can be caused, among other things, by words or actions or lack of words or actions when called for. Panels will want to consider whether such conduct, or lack thereof, caused a break in the series of events leading to the transaction and whether the successful transaction was actually brought about through the initiation of a separate, subsequent series of events by the second cooperating broker. (Revised 11/99)

**Factor #5: Conformity with state law**

The procedures by which arbitration requests are received, hearings are conducted, and awards are made must be in strict conformity with the law. In such matters, the advice of Board legal counsel should be followed.

**Factor #6: Consideration of the entire course of events**

The standard of proof in Board-conducted arbitration is a preponderance of the evidence, and the initial burden of proof rests with the party requesting arbitration (see Professional Standards Policy Statement 26). This does not, however, preclude panel members from asking questions of the parties or witnesses to confirm their understanding of testimony presented or to ensure that panel members have a clear understanding of the events that led to the transaction and to the request for arbitration. Since each transaction is unique, it is impossible to develop a comprehensive list of all issues or questions that panel members may want to consider in a particular hearing. Panel members are advised to consider the following, which are representative of the issues and questions frequently involved in arbitration hearings.

**Nature and status of the transaction**

- (1) What was the nature of the transaction? Was there a residential or commercial sale/lease?
- (2) Is or was the matter the subject of litigation involving the same parties and issues as the arbitration?

**Nature, status, and terms of the listing agreement**

- (1) What was the nature of the listing or other agreement: exclusive right to sell, exclusive agency, open, or some other form of agreement?
- (2) Was the listing agreement in writing? If not, is the listing agreement enforceable?
- (3) Was the listing agreement in effect at the time the sales contract was executed?
- (4) Was the property listed subject to a management agreement?
- (5) Were the broker's actions in accordance with the terms and conditions of the listing agreement?
  - (a) Were all conditions of the listing agreement met?
  - (b) Did the final terms of the sale meet those specified in the listing agreement?
  - (c) Did the transaction close? (Refer to Appendix I to **Part Ten**, Arbitrable Issues)
  - (d) Did the listing broker receive a commission? If not, why not? (Refer to Appendix I to **Part Ten**, Arbitrable Issues)

**Nature, status, and terms of buyer representation agreements**

- (1) What was the nature of any buyer representation agreement(s)? Was the agreement(s) exclusive or non-exclusive? What capacity(ies) was the cooperating broker(s) functioning in, e.g., agent, legally-recognized non-agent, other?
- (2) Was the buyer representation agreement(s) in writing? Is it enforceable?
- (3) What were the terms of compensation established in the buyer representation agreement(s)?
- (4) Was the buyer representative(s) a broker or firm to which an offer of compensation was made by the listing broker?
- (5) Was the buyer representative(s) actions in accordance with the terms and conditions of the buyer representation agreement(s)?
- (6) At what point in the buying process was the buyer representation relationship established? (*Revised 5/03*)

**Nature, status, and terms of the offer to compensate**

- (1) Was an offer of cooperation and compensation made in writing? If not, how was it communicated?
- (2) Is the claimant a party to whom the listing broker's offer of compensation was extended?
- (3) Were the broker's actions in accordance with the terms and conditions of the offer of cooperation and compensation (if any)? Were all conditions of the agreement met?

**Roles and relationships of the parties**

- (1) Who was the listing broker?
- (2) Who was the cooperating broker or brokers?
- (3) Were any of the brokers acting as subagents? As buyer brokers? In another legally recognized capacity?
- (4) Did the cooperating broker(s) have an agreement, written or otherwise, to act as agent or in another legally recognized capacity on behalf of any of the parties?
- (5) Were any of the brokers (including the listing broker) acting as a principal in the transaction?
- (6) What were the brokers' relationships with respect to the seller, the purchaser, the listing broker, and any other cooperating brokers involved in the transaction?
  - (a) Was the buyer represented by a party with whom the broker had previously dealt?
  - (b) Is the primary shareholder of the buyer-corporation a party with whom the broker had previously dealt?
  - (c) Was a prior prospect a vital link to the buyer?
- (7) Are all appropriate parties to the matter joined? (*Revised 5/03*)



### **Initial contact with the purchaser**

- (1) Who first introduced the purchaser or tenant to the property?
- (2) When was the first introduction made?
  - (a) Was the introduction made when the buyer had a specific need for that type of property?
  - (b) Was the introduction instrumental in creating the desire to purchase?
  - (c) Did the buyer know about the property before the broker contacted him?  
Did he know it was for sale?
  - (d) Were there previous dealings between the buyer and the seller?
  - (e) Did the buyer find the property on his own?
- (3) How was the first introduction made?
  - (a) Was the property introduced as an open house?
  - (b) What subsequent efforts were made by the broker after the open house? (Refer to Factor #1)
  - (c) Was the introduction made to a different representative of the buyer?
  - (d) Was the “introduction” merely a mention that the property was listed?
  - (e) What property was first introduced?

### **Conduct of the brokers**

- (1) Were all required disclosures complied with?
- (2) Was there a faithful exercise of the duties a broker owes to his client/principal?
- (3) If more than one cooperating broker was involved, was either (or both) aware of the other’s role in the transaction?
- (4) Did the broker who made the initial introduction to the property engage in conduct (or fail to take some action) which caused the purchaser or tenant to utilize the services of another broker? (Refer to Factor #4)
- (5) Did the cooperating broker (or second cooperating broker) initiate a separate series of events, unrelated to and not dependent on any other broker’s efforts, which led to the successful transaction—that is, did the broker perform services which assisted the buyer in making his decision to purchase? (Refer to Factor #4)
  - (a) Did the broker make preparations to show the property to the buyer?
  - (b) Did the broker make continued efforts after showing the property?
  - (c) Did the broker remove an impediment to the sale?
  - (d) Did the broker make a proposal upon which the final transaction was based?
  - (e) Did the broker motivate the buyer to purchase?
- (6) How do the efforts of one broker compare to the efforts of another?
  - (a) What was the relative amount of effort by one broker compared to another?
  - (b) What was the relative success or failure of negotiations conducted by one broker compared to the other?
- (7) If more than one cooperating broker was involved, how and when did the second cooperating broker enter the transaction?

### **Continuity and breaks in continuity (abandonment and estrangement)**

- (1) What was the length of time between the broker’s efforts and the final sales agreement?
- (2) Did the original introduction of the purchaser or tenant to the property start an uninterrupted series of events leading to the sale or lease, or was the series of events hindered or interrupted in any way?
  - (a) Did the buyer terminate the relationship with the broker? Why? (Refer to Factor #4)
  - (b) Did negotiations break down?
- (3) If there was an interruption or break in the original series of events, how was it caused, and by whom?
  - (a) Did the seller change the listing agreement from an open listing to an exclusive listing agreement with another broker?
  - (b) Did the purchaser’s motive for purchasing change?
  - (c) Was there interference in the series of events from any outside or intervening cause or party?
- (4) Did the broker who made the initial introduction to the property maintain contact with the purchaser or tenant, or could the broker’s inaction have reasonably been viewed by the buyer or tenant as a withdrawal from the transaction?
- (5) Was the entry of any cooperating broker into the transaction an intrusion into an existing relationship between the purchaser and another broker, or was it the result of abandonment or estrangement of the purchaser, or at the request of the purchaser?

**Conduct of the buyer**

- (1) Did the buyer make the decision to buy independent of the broker's efforts/information?
- (2) Did the buyer negotiate without any aid from the broker?
- (3) Did the buyer seek to freeze out the broker?
  - (a) Did the buyer seek another broker in order to get a lower price?
  - (b) Did the buyer express the desire not to deal with the broker and refuse to negotiate through him?
  - (c) Did the contract provide that no brokers or certain brokers had been involved?

**Conduct of the seller**

- (1) Did the seller act in bad faith to deprive the broker of his commission?
  - (a) Was there bad faith evident from the fact that the difference between the original bid submitted and the final sales price equaled the broker's commission?
  - (b) Was there bad faith evident from the fact that a sale to a third party was a straw transaction (one in which a non-involved party posed as the buyer) which was designed to avoid paying commission?
  - (c) Did the seller freeze out the broker to avoid a commission dispute or to avoid paying a commission at all?
- (2) Was there bad faith evident from the fact that the seller told the broker he would not sell on certain terms, but did so via another broker or via the buyer directly?

**Leasing transactions**

- (1) Did the cooperating broker have a tenant representation agreement?
- (2) Was the cooperating broker working with the "authorized" staff member of the tenant company?
- (3) Did the cooperating broker prepare a tenant needs analysis?
- (4) Did the cooperating broker prepare a market analysis of available properties?
- (5) Did the cooperating broker prepare a tour book showing alternative properties and conduct a tour?
- (6) Did the cooperating broker show the tenant the property leased?
- (7) Did the cooperating broker issue a request for proposal on behalf of the tenant for the property leased?
- (8) Did the cooperating broker take an active part in the lease negotiations?
- (9) Did the cooperating broker obtain the tenant's signature on the lease document?
- (10) Did the tenant work with more than one broker; and if so, why? *(Revised 11/96)*

**Other information**

Is there any other information that would assist the Hearing Panel in having a full, clear understanding of the transaction giving rise to the arbitration request or in reaching a fair and equitable resolution of the matter?

These questions are typical, but not all-inclusive, of the questions that may assist Hearing Panels in understanding the issues before them. The objective of a panel is to carefully and impartially weigh and analyze the whole course of conduct of the parties and render a reasoned peer judgment with respect to the issues and questions presented and to the request for award.

**E. Summation of  
Administrative Time Frames in Arbitration Proceedings**

| <b>Situation</b>                                 | <b>Time Table</b>  |
|--|--|
| <b>Grievance</b>                                 |  |
| Request filed                                    | 180 days . . .   |
| Response required / # of days                    | Optional/15 days from transmitting request to respondent if to submit response solicited   |
| Appeal dismissal to Directors                    | 20-days from transmitting dismissal notice   |
| Appeal of mandatory vs. voluntary classification | 20-days from transmittal of decision   |
| <b>Hearing</b>                                   |  |
| Notification to respondent of request            | 15-days from request for response being transmitted; staff transmits response to the complainant within 5 days from receipt  |
| Response required                                | 15-days from transmitting request to respondent  |
| Challenge forms                                  | 10-days to challenge from date forms transmitting  |
| Panel named                                      | 15-days from transmitting challenge forms  |
| Hearing notice                                   | 21-days before hearing   |
| Arbitration case to panel                        | Board option   |
| Notice of witnesses and attorney                 | 15-days before hearing to Board and other party  |
| <b>Procedural review</b>                         |  |
| Request filed                                    | 20-days from transmitting award  |
| Preliminary review                               | Optional number of days  |
| Amendment received                               | Within 10-days of notice   |
| Review held by Directors                         | Next/special meeting giving not less than 10 days notice but not later than 30 days after receipt of procedural review request; Directors transmit written decision within 5 days from the procedural review hearing |

(Revised 11/17)

\* Notice of hearing should be mailed to the parties with the Outline of Procedure (Form #A-10 or Form #A-10a, as appropriate) and the Arbitration Guidelines (including the Worksheet contained in Appendix II of Part Ten).

## **F. Mediation as a Service of Member Boards**

NOTE: Adoption and implementation of the following procedures and forms concerning mediation of arbitrable matters is optional on the part of each Member Board and State Association. However, Boards are encouraged to offer mediation as a preliminary, voluntary alternative to arbitration. Effective January 1, 2002, enforcement of the Code of Ethics also requires Member Boards to provide mediation and arbitration services to members and their clients so that the dispute resolution requirements of Article 17 of the Code of Ethics can be met. (Revised 11/99). Furthermore, effective January 1, 2012, Article 17 was revised and now states, in part, "...the REALTORS shall mediate the dispute if the Board requires its members to mediate. If the dispute is not resolved through mediation, or if mediation is not required, REALTORS shall submit the dispute to arbitration in accordance with the policies of their Board rather than litigate the matter." (Amended 1/12)

Although no party to an arbitrable matter can be required to submit to mediation (unless Realtors® [principals] are required by their Board to mediate otherwise arbitrable disputes pursuant to Article 17) and mediation cannot and is not intended to be a substitute for the arbitration procedures described elsewhere in this Manual, mediation can be a useful tool in resolving the conflicts that arise involving Board Members and their clients and customers. Mediation can promote amicable resolutions and reduce the number of cases requiring the more formal and complex arbitration procedures of the Board, thus reducing the time and effort required of Board Members serving on the Professional Standards Committee. (Revised 11/11)

**Selection of Board Mediation Officer:** Conducting successful mediation procedures requires tact, diplomacy, and a sense of equity. Careful consideration should be given by the Board President (or the Board of Directors of the Board) in selecting the Board's Mediation Officer. Many Boards will find that one Mediation Officer will be sufficient. However, in large Boards, consideration can be given to appointing a standing panel of two, three, or more Mediation Officers depending upon the number of requests for arbitration normally filed in the course of a year.

A Board Mediation Officer should be appointed for a term of at least one (1) year. Consideration can be given by the local Board to making the appointment for two (2) or even three (3) years. It is strongly recommended that any individual serving as a Board Mediation Officer have extensive prior experience on the Board's Grievance Committee, Professional Standards Committee, and/or Board of Directors. The Mediation Officer should be thoroughly conversant with the Board's arbitration procedures as well as with the real estate rules and regulations of the state. It is recommended that the Mediation Officer not serve concurrently as either an officer or director of the Board, or as a member of the Grievance Committee, or as a member of the Professional Standards Committee. If Mediation Officers are members of the Grievance Committee, they shall not participate in the consideration of requests for arbitration or ethics complaints arising out of the same facts and circumstances giving rise to a matter they attempted to mediate. If Mediation Officers are members of the Professional Standards Committee, they shall not serve on an arbitration Hearing Panel in cases where they had initially attempted to resolve the dispute prior to an arbitration hearing, or on an ethics Hearing Panel in cases where an ethics complaint arises out of the same facts and circumstances giving rise to a matter they attempted to mediate. The Mediation Officer should be someone widely respected for fairness, experience, and impartiality. Only to the degree that all parties to the mediation can be confident of an impartial determination will mediation procedures be successful. By having more than one Mediation Officer, assignments can be made to utilize a particular individual whose experience, abilities, and relationship renders him/her most appropriate for the particular assignment. (Revised 11/91)

**Mediation is Mandatory or Voluntary as Determined by the Board:** It must be understood by all parties that participation in mediation procedures is entirely voluntary unless Realtors® (principals) are required by their Board to mediate otherwise arbitrable disputes pursuant to Article 17. If the Board or Association does not require Realtors® (principals) to mediate otherwise arbitrable matters, the parties should be offered the opportunity and encouraged to participate in the mediation process in good faith, and, further, encouraged to abide by the determination. The parties to mediation should be aware that they may withdraw from the process at any point prior to reaching an agreement. Any offers of settlement that were not accepted or any suggested resolution proposed by the Mediation Officer that was not accepted will not be introduced as evidence nor considered in any manner should the matter require arbitration by the Board's Professional Standards Committee. However, if the parties agree to a settlement of the dispute, and the settlement has been reduced to writing and has been signed by all of the parties, the matter is deemed resolved and cannot

be the subject of a subsequent arbitration hearing. In the event either of the parties later fails to abide by the terms of the settlement, the matter may not be arbitrated; instead, the other party should be encouraged to have the settlement agreement judicially enforced by a court of competent jurisdiction.

### **Effective January 1, 2012:**

#### **New Professional Standards Policy Statement #58, Circumstances Under Which Disputes May be Mediated if REALTORS Voluntarily Agree:**

While mediation can only be mandated under the circumstances expressly established in Article 17 of the Code of Ethics, boards and associations may, at their discretion, offer mediation, and REALTORS may voluntarily participate in mediation, where disputing parties voluntarily request mediation. The circumstances under which voluntary mediation may occur include:

- 1- Disputes between REALTORS associated with different firms where no arbitration request has been filed.
- 2- Disputes between REALTORS and their clients where no arbitration request has been filed.
- 3- Disputes between REALTORS who are or were affiliated with the same firm when the dispute arose.
- 4- Disputes between REALTORS and non-member brokers.
- 5- Disputes between REALTORS and their customers.

### **Effective January 1, 2016:**

#### **Ombudsman Services**

##### **New Professional Standards Policy Statement #59, Associations to Provide Ombudsman Services, in the current NAR *Code of Ethics and Arbitration Manual*, provides as follows:**

Every local and state association of REALTORS® is required to offer ombudsman services to members, clients, and consumers on or before January 1, 2016.

**An ombudsman is an individual appointed to receive and resolve disputes through constructive communication and advocating for consensus and understanding.**

Ombudsman procedures are intended to provide enhanced communications and initial problem-solving capacity at the local level. It is the belief of the National Association's Professional Standards Committee that many ethics complaints might be averted with enhanced communications and initial problem-solving capacity at the local level. These ombudsman procedures are intended to provide that capacity. The ombudsman's role is primarily one of communication and conciliation, not adjudication. Ombudsmen do not determine whether ethics violations have occurred or who is entitled to what amount of money, rather they anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and possible charges of unethical conduct.

### **Effective January 1, 2016:**

#### **Citation Policy**

Associations adopting this Citation Policy model must also adopt a "Citation Schedule" of potential violations covered and must specify the fines that apply to those violations.

Associations adopting this Citation Policy shall establish a Citation Panel, comprised of at least three (3) individuals, who will review complaints to determine eligibility for the citation program and the appropriate citations. It is recommended that the Citation Panel be a subset of the association's Professional Standards Committee, and that the individuals on the Citation Panel have a high level of experience in hearing professional standards cases.

Complaints must be filed within one hundred eighty (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later.



## **General Questions & Answers**

### **Regarding**

### **Ethics and Arbitration Proceedings**

**1. Can the Board of Directors direct a Grievance Committee to always solicit responses in ethics and arbitration proceedings?**

No. Only if the Grievance Committee is in need of additional information which the complainant cannot provide pertaining to the questions in Section 19, Grievance Committee's Review of an Ethics Complainant, or Section 42, Grievance Committee's Review and Analysis of a Request for Arbitration, may the Grievance Committee solicit a response. (Revised 11/15).

**2. A respondent in an ethics hearing has notified the Board that she will be represented by legal counsel. Is it appropriate for her counsel to take an active role in the hearing?**

Every party to an ethics or arbitration hearing has the right to be represented by legal counsel. Counsel may take an active role in presenting the opening and closing statements, the party's claim/defense, and the cross-examination of the other party and the other party's witnesses. Regardless of how actively counsel participates in a hearing, it is important to remember that no REALTOR® may refuse to answer questions directly put to him or her (though the party may confer with counsel prior to answering), and at no time must a Hearing Panel countenance any attempt by counsel to harass, intimidate, coerce, or confuse the panel or any party to the proceeding.

**3. A salesperson is the respondent in an ethics complaint. The respondent asks that his principal broker (who is also a REALTOR®) serve as his counsel during the hearing. Is this permitted?**

Yes. As used in the Code of Ethics and Arbitration Manual, the term "counsel" refers to an attorney at law or to a REALTOR® of the parties' choosing (or both) in an ethics proceeding. However, it would be inappropriate for anyone other than a licensed attorney to act as counsel for a party to an arbitration proceeding.

**4. What does NAR recommend with respect to an Executive Officer's role in ethics and arbitration hearings?**

Whether an Executive Officer attends hearings in an administrative capacity, or participates pursuant to the optional hearing officer policies, is a matter of local discretion. Some Boards and Associations have determined that it is beneficial to have the Executive Officer present to provide technical assistance and expertise, while other Boards and Associations choose to have one of the panelists (or Board counsel) provide procedural guidance. This is a matter to be determined by each Board and Association depending on, for example, staff resources, staff experience in professional standards matters, hearing panelists' experience relative to procedures and enforcement of the Code of Ethics, the complexity of the issue, and whether or not Board counsel will be present.

**5. Our Board is small, and if we are unable to impanel an impartial tribunal of five Directors to consider an appeal, can we refer the appeal to another Board?**

No; if a Board is unable to impanel an impartial appeal tribunal, the Board of Directors could refer the matter to the State Association. Refer to Professional Standards Policy Statement #18 in the Code of Ethics and Arbitration Manual.

**6. How long should our Board retain professional standards records?**

The National Association has no policy governing retention of professional standards records. Boards are encouraged to consult legal counsel when determining how long professional standards records should be kept. NAR recommends that the results of an ethics hearing be retained permanently; records relative to the rest of the ethics file should be retained for one year after any discipline has been complied with absent a threat of litigation. In arbitration cases, records should be retained for one year after the award has been paid absent a threat of litigation. Minimally, all professional standards records should be retained until the appeal or procedural review period has expired and it is recommended that the final decision of arbitration Hearing Panels and the Board of Directors relative to ethics proceedings be retained permanently in the respondent's membership file. For more information on document retention see the articles on [www.nar.realtor](http://www.nar.realtor): "Document Retention: What Not to Trash" and "Association Record Retention."

**7. Can an extension be granted for responses to be submitted to the Board of REALTORS®?**

Yes; extensions can be granted as a matter of discretion by the appropriate tribunal.

**8. Can an individual who is not a named party attend an ethics or arbitration hearing?**

No; attendance at any hearing is limited to the parties and the parties' respective counsel and/or witnesses (witnesses are excused except during their testimony); the Hearing Panel members (including alternates); Board staff and/or counsel, as deemed necessary; and the court reporter, if utilized. In any ethics proceeding, the REALTOR® principal may attend. In any arbitration proceeding, REALTOR® non-principals and REALTOR-ASSOCIATE®S who have a vested financial interest may also attend.

**9. Must our Board grant a postponement each time one is requested? Or, if one party receives a postponement, is the other party automatically entitled to a postponement if requested?**

A Board is under no obligation to grant a postponement, much less honor repeated requests for postponement. However, extenuating circumstances should be considered in determining if a requested continuance will be granted. Parties' requests for continuances shall only be granted when all parties mutually agree to a subsequent specified date, or when the hearing panel chair determines that denying the continuance would deny the requestor a fair hearing. (*Revised 11/14*).

**10. What is an "arbitrable issue?"**

An arbitrable issue is defined as a question arising out of a transaction between parties to a contract (and specific non-contractual disputes as defined in Standard of Practice 17-4). To proceed with arbitration, there must be a dispute between the parties that arises out of a real estate transaction and a disagreement between the parties as to entitlement to a sum of money.

**11. Can a mandatory arbitration exist between two cooperating brokers?**

Possibly. Refer to Part Ten of the Code of Ethics and Arbitration Manual and Standard of Practice 17-4.

**12. A Board has scheduled an arbitration hearing, and the respondent advises the Board that he will not attend the hearing. Can the scheduled hearing proceed?**

Arbitration in the absence of a respondent may take place where permitted by state statute or case law. The Code of Ethics and Arbitration Manual, in Part Ten, Section 48, provides three (3) options addressing the circumstances under which Boards may conduct arbitration. Boards should consult with Board or State Association legal counsel and determine which of these options the Board should adopt.

Additionally, no arbitration hearing may be held in the absence of the complainant, and no award may be rendered without a hearing on the merits.

**13. Can a Board, prior to an arbitration hearing being held, hold the disputed funds in its escrow account if voluntarily submitted by the parties?**

Yes, but this is a matter of local option. Under no circumstances may a Board require the parties to deposit the funds prior to an arbitration hearing being held. See Professional Standards Policy Statement #8.

**14. Can a client request arbitration with a REALTOR® principal?**

Yes.

**15. Can a REALTOR® principal invoke arbitration if the dispute arose prior to the time the requestor became a REALTOR®?**

No; refer to the Professional Standards Policy Statement #23, *Code of Ethics and Arbitration Manual*.

**16. Who can amend an ethics complaint, and when can it be amended?**

Before an ethics complaint is referred to the Professional Standards Committee for hearing, it may be amended either by the complainant or by the Grievance Committee. If the Grievance Committee dismisses an Article(s) cited by the complainant, the complainant may appeal that dismissal to the Board of Directors.

After referral to the Professional Standards Committee, the complaint may be amended by the complainant. The respondent should then be provided with a copy of the amended complaint and be given an opportunity to file an amended response.

An ethics complaint may also be amended by either the complainant, or upon action of the Hearing Panel during the hearing to add previously uncited Articles or additional respondents. If this occurs, the respondent may request a postponement to prepare a response to the amended complaint.

Arbitration requests may be amended to add or delete parties only by the complainant or respondent. During its initial review, however, the Grievance Committee may suggest that such amendments be made in order to ensure that all related claims arising out of the same transaction can be resolved at the same time.

**17. Who can withdraw a complaint, and when can this be done?**

Complainants may withdraw their complaints at any time prior to adjournment of the ethics hearing. However, if complainant withdraws the complaint after transmission of the Grievance Committee's decision to forward the complaint to a hearing and prior to adjournment of the ethics hearing, the complainant may not resubmit the complaint on the same matter. If complainant withdraws the complaint before transmission of the Grievance Committee's decision to forward the complaint to a hearing, the complainant may resubmit the complaint on the same matter so long as it is filed within the 180-day filing deadline as defined in this Manual. If a complaint is withdrawn by the complainant after the Grievance Committee determines the complaint requires a hearing, it will be referred back to the Grievance Committee to determine whether a potential violation of the public trust may have occurred. Only where the Grievance Committee determines a potential violation of the public trust may have occurred may the Grievance Committee proceed as the complainant. (*Amended 5/16*)

**18. An ethics complaint has been filed with our Board alleging a violation of an MLS regulation. How should we process this complaint?**

If the alleged offense is a violation of an MLS rule or regulation and does not involve a charge of unethical conduct or request for arbitration, it may be administratively considered and determined by the Multiple Listing Service Committee, and if a violation is determined, that committee may direct the imposition of a sanction. The recipient of such a sanction, however, may then request a hearing before the Professional Standards Committee within twenty (20) days following receipt of the MLS Committee's decision.

Any alleged violation of an MLS rule or regulation that includes charges of unethical conduct should be forwarded to the Grievance Committee for review and possible referral to the Professional Standards Committee. Refer to Section 7.1, Handbook on Multiple Listing Policy.

**19. Is there a policy that would allow ethics complaints that involve several REALTORS® to be consolidated into one ethics hearing?**

**Professional Standard Policy Statement #34 provides:** Consolidation of Ethics Complaints Arising Out of the Same Transaction. In the interest of maximizing the resources of Boards and Associations, Grievance Committees should use all reasonable efforts to ensure that all ethics complaints arising out of the same transaction or event are consolidated and scheduled for hearing in a single hearing. Respondents to ethics complaints do not have the right to a separate hearing unless they can demonstrate that consolidation of complaints would prevent them from receiving a fair hearing.

**20. A principal broker has not been named as a respondent in an ethics complaint but wants to attend the hearing in which his sales associate is a respondent. Can he do so?**

A principal who is not joined in an ethics complaint as a respondent may be present and participate during the hearing and may even be required by the Hearing Panel to attend the hearing, consistent with the provisions of Section 13(d), Code of Ethics and Arbitration Manual. Whether the principal attends the hearing or not, the principal should receive copies of the complaint and response and be provided with notice of hearing. *(Revised 05/18)*

**21. Can our Board impose “conditional” discipline? For example, can we stipulate that a respondent be suspended until a fine is paid?**

Yes. Although suspension may not be imposed as a sanction for greater than one (1) year (and expulsion for not more than three [3] years), a Board can stipulate that a respondent be suspended (or expelled) until a fine is paid or an educational course is completed. The respondent would be seen as having the “keys to his own cell,” meaning that the length of his suspension or expulsion is dependent on his own actions.

**22. Does the complainant’s REALTOR® principal, if not a co-complainant, have the right to be present during an ethics hearing?**

No; only the respondent’s REALTOR® principal has the right to attend the ethics hearing (unless the complainant’s REALTOR® principal is acting as counsel). Refer to Part Two, Section 4 and Section 13 of the Code of Ethics and Arbitration Manual.

**23. A member found in violation has asked for an extension in order to complete the discipline imposed. Can such an extension be granted?**

Yes, at the discretion of the Board of Directors.

**24. Our Association is considering publication of ethics violations. What do we need to do?**

Ensure your Association has adopted one of the two Publication Options described in Policy Statement 45, Publishing the Names of Code of Ethics Violators, Code of Ethics and Arbitration Manual. Publication Option #2 builds on the authority provided in Publication Option #1 by authorizing publication in all instances in which violators are disciplined with a letter of reprimand, a fine, a suspension, and/or an expulsion, and by expanding the content of the publication notice. The nature, form, content, and extent of this notice should not exceed what is authorized by the Publication Option adopted by the Association as provided in Policy Statement 45, Publishing the Names of Code of Ethics Violators, *Code of Ethics and Arbitration Manual*. *(Revised 05/18)*.

**SEE PAGE 68 for more information.**

**25. A member who is a respondent in an ethics complaint is demanding that the complainant produce certain documents. Can he do so?**

No; only a duly authorized tribunal of the Board may require information to be submitted.

**26. Can a Board consolidate an ethics complaint and arbitration request filed by the same complainant against the same respondent?**

Such an arbitration request and ethics complaint cannot be consolidated in one proceeding, and the member filing them must be so advised. If the complainant still wished to pursue both the arbitration request and the charge of alleged unethical conduct, the two matters must be handled separately. In such cases, the arbitration should be held first to avoid prejudice to the arbitration by reason of any finding as to violation of the Code of Ethics. When the ethics hearing is held at a later time, it should be before a different Hearing Panel and individuals having served on the arbitration panel may not serve on the ethics Hearing Panel.

**27. What does the National Association recommend be included in the “Findings of Fact” section of sample form #E-11?**

The purpose of the “Findings of Fact” section of Form #E-11 is to provide a clear and concise statement of the facts that led the Hearing Panel to reach its conclusion. For example, the findings of fact for a violation of Article 12 could read as follows: “REALTOR® B was charged with a violation of Article 12. Evidence provided during the hearing showed that his firm had a listing on 123 Pleasant Drive, and that he ran an ad on October 4 for the property which did not disclose the name of his firm. Consequently, the Hearing Panel finds him in violation of Article 12 as interpreted by Standard of Practice 12-5.”

- 28. A REALTOR® belongs to Board A only and is a Participant only in Board B's MLS. Can Board A forward the professional standards records of this individual to Board B if the individual has been found in violation of the Code of Ethics at Board B?**

Yes, if a REALTOR® is found in violation of the Code of Ethics at one Board, another Board may share that member's professional standards record for progressive disciplinary purposes.

- 29. If either an ethics complaint or arbitration request is dismissed, in whole or in part, what information should be included in the dismissal notice?**

A notice of dismissal shall specify the reason(s) for dismissing (e.g., the matter is not timely filed, or the allegations, if taken as true, do not appear to support a possible violation of the Article(s) cited, or there is no contractual dispute between the parties named in arbitration). Any notice of dismissal shall also inform the complainant of their opportunity to appeal the dismissal, and should inform the complainant that although the complaint/arbitration request or attachments cannot be revised/supplemented, the complainant may explain in writing why the complainant disagrees with the conclusion that the matter be dismissed.

- 30. If a Realtor® principal resigns or otherwise causes his or her Realtor® membership to terminate and there is a current arbitration request pending against him or her, can a complainant amend an arbitration request to name the new Realtor® principal?**

The new Realtor® principal may only be required to arbitrate if the new Realtor® principal was a Realtor® principal of that firm at the time the dispute arose. The complainant can name any Realtor® principal of the firm at the time the dispute arose and the arbitration can proceed. If the original respondent simply moved from Company A and re-affiliated as a Realtor® nonprincipal with Company B, the arbitration could proceed against the original respondent because the duty to arbitrate is personal.

- 31. Can the sample forms contained in the *Code of Ethics and Arbitration Manual* be amended/changed?**

Yes, however, amended forms should not be used until they are first reviewed by counsel to ensure that they conform to state law and to any special requirements established by the Board.

- 32. If a party appeals an ethics decision or requests procedural review of an arbitration hearing, do they have the right to counsel?**

Yes.

- 33. If a party who has appealed an ethics decision or requested procedural review of an arbitration hearing fails to appear, must the board of directors proceed with the appeal hearing (or procedural review) in the absence of the involved party?**

A board may proceed with an ethics appeal or request for procedural review if the party who instituted the appeal (or request for procedural review) fails to appear.

- 34. If a procedural review (arbitration) is to be conducted and REALTOR® (non-principal) with a financial interest finds himself or herself unable to attend, must he or she be granted a postponement?**

No. While a REALTOR® (non-principal) also has a financial interest in the dispute and who is affiliated with a party to an arbitration hearing has the right to attend the arbitration hearing (and any subsequent procedural review proceeding), he or she is not a party to the proceedings and the proceedings may take place in his or her absence.

- 35. How should probation be used by a hearing panel that finds a violation of the Code of Ethics?**

Probation should be used if a hearing panel wants to hold a form of discipline (e.g., a fine) in abeyance during the probationary period not to exceed one (1) year. Any subsequent finding of a violation of the Code of Ethics during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent finding of a violation during the probationary period, both the probationary status and suspended discipline will be considered fulfilled. Conversely, if the hearing panel wants the respondent to comply with discipline, the hearing panel should not place the respondent on probation. (Adopted 11/14)

# **Section THREE**

## **Code of Ethics**

and

## **Standards of Practice**

### **The REALTOR® Code of Ethics**

#### **An Assurance of Public Service and Protection**

One of the fundamental objectives of the founders of the NATIONAL ASSOCIATION OF REALTORS® was a Code of Ethics which would be, "... as the ten commandments to the real estate fraternity." When the first Code was approved in 1913 at the Annual Convention in Winnipeg, Canada, a delegate arose to say, "... many important things have occurred here today, but none so important as the action we have just taken."

And thus, the Code was born, and it has served since 1913 as a "golden thread" binding REALTORS® together in a common, continuing quest for professionalism through the ethical obligations premised upon moral integrity and competent service to clients and customers, and dedication to the public interest and welfare. The Code has been amended many times to reflect changes in the real estate marketplace, the needs of property owners, and the perceptions and values of society, but its demand for high standards of professional conduct protecting the interests of clients and customers and safeguarding the rights of consumers of real estate services has not and will never change.

The Code of Ethics was amended at the 1994 Annual Convention to make the aspirational objectives of the former first six Articles an integral part of the Preamble to ensure that the duties and obligations imposed by the Code, through its Articles, are objective, readily understood, and will be interpreted and applied consistently and uniformly nationwide.

The Standards of Practice were first adopted in 1975.

The 17 Articles of the Code establish standards of conduct which the REALTOR® must satisfy. These Articles govern the REALTOR®'s conduct in everyday business dealings with clients, customers, and other REALTORS®. Failure to observe these standards can result in disciplinary action.

**The Code of Ethics was adopted in 1913 and was amended at the NAR Annual Convention in 1914, 1915, 1924, 1928, 1950, 1952, 1955, 1956, 1961, 1962, 1974, 1975, 1976, 1977, 1980, 1982, 1984, 1985, 1986, 1987, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2015, 2017, 2018 and 2019.**

# **The REALTOR® Code of Ethics**

## **Composition**

The REALTOR® Code of Ethics is comprised of three components:

**1. The Preamble,**

which is an introduction;

**2. The 17 Articles,**

which are broad statements of ethical principles (conduct), and

**3. The 88 Standards of Practice,**

which support, interpret and amplify the articles under which they are stated.

**And the 160 Case Interpretations**

describe real-world decisions and precedents that support  
the Articles and Standards of Practice.

**NOTE:** This manual does *not* include any of the Case Interpretations.

A complete listing of the Interpretations can be found at

<https://www.nar.realtor/code-of-ethics-and-arbitration-manual/case-interpretations>

The Professional Standards Committee of the National Association of REALTORS® compiles case interpretations to help REALTORS® understand the ethical obligations created by the Code of Ethics and Standards of Practice.

Each case interpretation presents a specific situation involving charges of unethical conduct by REALTORS® in which decisions on ethical conduct are reached by a peer hearing panel.

**The 2020 modifications to the  
Code of Ethics and Standards of Practice are found at  
SOP 1-7, 3-11 & 12-1.**

# The REALTORS® Code of Ethics and Standards of Practice

Where the word REALTORS® is used in this Code and Preamble,  
it shall be deemed to include REALTOR-ASSOCIATE®S.

**While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the *law* must take precedence.**

## PREAMBLE

Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. Realtors® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment.

Such interests impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which Realtors® should dedicate themselves, and for which they should be diligent in preparing themselves. Realtors®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow Realtors® a common responsibility for its integrity and honor.

In recognition and appreciation of their obligations to clients, customers, the public, and each other, Realtors® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. Realtors® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm, should bring such matters to the attention of the appropriate Board or Association of Realtors®. (*Amended 1/00*)

Realizing that cooperation with other real estate professionals promotes the best interests of those who utilize their services, Realtors® urge exclusive representation of clients; do not attempt to gain any unfair advantage over their competitors; and they refrain from making unsolicited comments about other practitioners. In instances where their opinion is sought, or where Realtors® believe that comment is necessary, their opinion is offered in an objective, professional manner, uninfluenced by any personal motivation or potential advantage or gain.

The term Realtor® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal.



In the interpretation of this obligation, Realtors® can take no safer guide than that which has been handed down through the centuries, embodied in the Golden Rule, “Whatsoever ye would that others should do to you, do ye even so to them.”

Accepting this standard as their own, Realtors® pledge to observe its spirit in all of their activities whether conducted personally, through associates or others, or via technological means, and to conduct their business in accordance with the tenets set forth below. *(Amended 1/07)End of Preamble*

## **Aspirational Objectives in the Preamble**

### **Becoming and remaining informed:**

The amount of information a REALTOR® may have can vary at different states of the REALTOR®’s professional life. The REALTOR® should strive to: (1) become informed as rapidly and thoroughly as feasible about laws, proposed legislation, government regulations, public policies, and current market conditions; and (2) seek reliable information on matters that depend, in whole or in part, upon information or knowledge the REALTOR® may provide to clients and customers.

REALTORS® will find it difficult to advise clients and customers properly if they do not know the requirements and limitations imposed by laws impacting upon a property or its owner. REALTORS® must provide accurate information, but must refrain from the unauthorized practice of law. REALTORS® should avoid engaging in activities where they lack sufficient knowledge or when the activity is beyond the scope of their licensure.

An important corollary is to admit any lack of pertinent knowledge and recommend that information be sought from others who are adequately informed. Intelligence and integrity are measured in part by the awareness an individual has as to that which the individual does not know.

REALTORS® cannot be fully informed on all matters at all times, but must always be honest and forthright and should constantly increase their knowledge and expertise consistent with the reasonable expectations of clients and customers.

Only informed REALTORS® can contribute responsibly to public thinking. With so many issues affecting the practice of real estate and the rights of property owners, it is recommended that REALTORS® be informed and contribute responsibly to debate and decision as best they can.

### **Requests for opinions and unsolicited criticism**

A REALTOR® is not precluded from responding to a request for an opinion as to a competitor’s business practices in general, or a real estate transaction in particular. If the REALTOR® deems it appropriate to respond, the REALTOR® should provide the opinion with strict professional integrity and courtesy (i.e., provide objective, reliable information in a professional manner). This requires careful language and a thoughtful and analytical approach based on facts. REALTORS® can always refrain from comment if they choose.

Nothing is gained and much may be lost by “sounding off” in public. Uninvited criticism is counterproductive, impairs cooperative efforts, and diminishes the public’s appreciation for the valuable services provided by REALTORS®.

Stress the value and merit of your own work rather than criticizing or making derogatory comments about the efforts of other REALTORS®.

### **Active participation in enforcement of law, regulations and the Code.**

If the REALTOR® becomes aware of any practice damaging to the public or which may bring discredit upon the real estate profession, the Preamble encourages the REALTOR® to bring such actions to the attention of the State Real Estate Commission.

Such reports should not be prompted by personal whim, preference or spite, but should be a manifestation of respect for the law and the Code of Ethics.

Reports should never be made for the purpose of restraining a competitor who provides new or different services. Any challenge of a competitor's practice must be based solely upon an unbiased and disinterested analysis of the practice or service itself and whether it damages the public or brings discredit upon the real estate profession.

REALTORS® should be aware that they must arbitrate certain business disputes with other Members rather than resorting to litigation. However, the obligation to arbitrate does not obviate the obligation to report any potential violations of the law to the governmental agency charged with regulating the practices of brokers and salespeople in the state.

REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm, should bring such matters to the attention of the appropriate Board or Association of REALTORS®.

### **Exclusive representation of clients**

REALTORS® should urge the exclusive listing of property unless contrary to the best interest of the owner. This prevents dissension and misunderstanding and assures better service to the owners and lessors.

The exclusive listing includes both exclusive right to sell and exclusive agency agreements which benefit sellers and lessors since they establish a clear line of responsibility on the part of the seller or lessor and the listing broker. Listing brokers know they will not be paid unless they meet the specific terms and conditions of the listing, but are assured of payment if they do perform. Sellers and lessors know they will incur an obligation to pay only one commission. Sellers and lessors are assured that property will be shown only to bona-fide, pre-qualified prospective buyers or tenants. Such certainties, established by the exclusive listing agreement, minimize dissension and misunderstanding and sellers and lessors are assured of the best efforts of listing brokers and cooperating brokers.

### **Sharing knowledge and experience**

This concept encourages a high standard rarely established by business and professional groups. As a general rule, business competitors do not share the lessons of their experience with each other for the benefit of the public. Rather, such experience is zealously guarded lest it fall into the hands of competitors. But REALTORS®, although intensely competitive with each other, at the same time cooperate with each other in the best interest of clients and customers. In cooperative transactions, it is desirable that the combined professional abilities and talents, as well as the shared commitment to high standards of conduct, prevail. This cooperation benefits clients and customers.

Programs offered by Boards provide opportunities to share information on public policy, politics, and legislation affecting private ownership of real property and the practice of real estate; technology to improve service and maintain competency; methods of financing real estate transactions; and standards of professional conduct. They also provide opportunities to share information on better methods of selling, buying, leasing, managing, counseling, appraising, developing, and syndicating.

REALTORS® should share their knowledge and expertise with other REALTORS® for the benefit of their clients and customers.

### **Avoidance of unfair advantage**

If disagreements did not arise between Members, there would be little need for ethics or arbitration hearings. REALTORS® should strive to minimize the likelihood of disagreements through professional practice, including adherence to the Code of Ethics, understanding and respect for the law, and general competence in all transactions undertaken. A REALTOR® cannot guarantee that disagreements will never arise, but should always seek to avoid even the appearance of impropriety.

Perhaps unfair advantage can be best avoided by caring, consideration, and communication. REALTORS® who care for the interests of every individual involved in a real estate transaction are not apt to take any unfair advantage. REALTORS® who consider all points of view are not likely to take unfair advantage. Good relationships and good results in real estate matters are commensurate with good communication between principals, agents, and cooperating brokers.

The phrase “unfair advantage” is not intended to discourage aggressive competition. Rather, it is intended to discourage, among other things, misrepresentation of law or fact; misleading clients and customers with respect to the competence, honesty, or loyalty of other REALTORS®; resorting to technicalities to justify questionable actions; and attempts to induce a breach of contract. It is not inappropriate to list or sell aggressively, or to work harder and longer than others. Ultimately, unfairness works to the disadvantage of clients and customers since it limits their power of choice; exposes them to possible litigation; and deprives them of the full benefits of an open and cooperative relationship.

## **Origins of the Code**

In today’s world, preoccupied as it is with social responsibility and oriented as it is to consumer concerns, it is hard to visualize how truly revolutionary the Code of Ethics was when it was adopted in 1913.

The history of the real estate business for the preceding 150 years was a history of rampant land speculation, exploitation, and disorder. It was an era before the adoption of state regulatory licensing systems. It was a time when real estate agents, if they were licensed at all, were licensed as “peddlers”.

It was the era of the fraudulent subdivision, the fake city addition, the multiple “first” mortgage, the “net” listing, and a myriad of other “get rich quick” schemes involving the sale of land. It was the era of “caveat emptor” and the Robber Barons whose motto was not “Let the Public Be Served” but rather “Let the Public Be Damned.”

This was the era which produced the Code of Ethics of the National Association. With the exception of a now defunct association of printers, the Realtors® were the first business group outside the “learned professions of medicine, engineering, and law” to adopt a Code of Ethics. It was an uncommon event with uncommon men and women making an uncommon commitment to business integrity and fair dealing.

It was not a commitment coerced by threat of government sanction but a commitment predicated on a need perceived by Realtors® themselves. It was not a commitment mandated by the marketplace because it involved the voluntary acceptance of liabilities and responsibilities, duties and costs, limitations and obligations, which the public did not even perceive as their due. It was, in sum, a commitment to the concept of service to the public as an article of faith in professionalism.

## **Significance of the Code**

The significance of the Code rests not merely in the guidance it provides those who subscribe to it, but also in the guidance it has provided the National Association in its growth and development. From the very beginning, the Code has provided the impetus for Association involvement in education of Realtors® to support [the Preamble] and [Article] 11; in the protection of private property ownership to support [the Preamble]; in the creation and administration of multiple listing and other cooperative arrangements to support Articles [5] and [3]; in the arbitration of disputes to support Article [17]; in the protection of the consumer to support Articles [1] and [2].

The Code has been significant not merely in its impact on the focus of Association programs and activities, but also in its impact on Association organization and structure. Thus, the local Board of Realtors® is an indispensable constituent of the Realtor® family in large measure because it represents an effective forum for the enforcement of the Code. From this function, too, proceeds the need for Board jurisdictions and the structure of the State Association. Perhaps, more than anything else, the Code has provided the interdependent relationship which binds the National Association, its Member Boards, State Associations, and Institutes, Societies, and Councils into a single working constituency.

## The Code and the Law

The Code of Ethics is never opposed to the law. The Code, in its application or implementation, must always be construed harmoniously and consistently with the law.

But the Code is not the law. It is supported not by the coercive power of the state but rather by the principles of contract. Acceptance of Realtor® membership creates a form of “professional compact,” the terms of which the Code defines. No matter how similar the mandates of the Code may be to the dictates of the license laws and other legislation, the difference between them is fundamental and unavoidable.

The relation of the Code to the law is two-fold. First, the Code defines those duties and obligations required in the public interest which are beyond the capacity or power of the law to mandate, and second, the Code supports the law by requiring a higher sensitivity to the duties and obligations which it imposes.

In the performance of its first role, the Code is concerned with identifying the extensions of professionalism to serve the public’s evolving needs. In the performance of its other role, the Code is concerned with the refinement and specific application of legal principles to real estate transactions.

When the Code was first adopted, there were no statutory definitions of the professional responsibilities necessary to protect and serve the public. That such definitions exist today in state license laws is in large measure the result of the Code. Thus, as government came to recognize that the professional duties and obligations assumed by Realtors® voluntarily under the Code truly served the public interest, it then conditioned licensure on the licensee’s acceptance to protect the whole public and not merely those served by Realtors®.

While the task of identifying the extensions of professionalism continues, certainly in recent years, with the general licensure of the profession, the role of the Code is sensitizing Realtors® to the full implications and applications of their legal obligations has become increasingly important. It is this role which has involved the Code so intimately with such legal doctrines as implied warranty, agency and fiduciary duty and equal opportunity.

Because the Code is a living document and real estate is a dynamic business and profession, the law need never be its substitute. So long as the aspiration to better serve the public remains the underlying concept of the Code it must evolve and grow in significance and importance consonant with but independent of the law.

## The Code and Its Use

There is no idea which cannot be misapplied; no faith which cannot be exploited; no concept which cannot be abused; and no principle which cannot be perverted. For this reason, the integrity of the Code and the value of its vision of the real estate industry depends ultimately upon its use.

If it is applied inconsistently, it becomes arbitrary and hence oppressive. If it is applied without understanding, it becomes unreasonable and hence dogmatic. If it is used in ignorance, it becomes meaningless; if it is used inappropriately, it becomes irrelevant; and if it is used without moderation, it becomes irrational.

No Code of Ethics can long survive its misuse or misapplication. This is why the Realtors® Code of Ethics must be applied with continuing and conscientious concern for procedural due process. Procedural due process is both an explicit and implied requirement of the Code. It is required explicitly by Article [14], which requires a “proper tribunal” and implicitly by the Preamble’s reliance on the Golden Rule. The due process requirement, after all, requires nothing more than a fair and diligent search for the truth—with an opportunity for all facts to be gathered; all views to be heard; all defenses to be raised and all prejudice or bias to be expunged. But while due process requires nothing more than a fair and diligent search for the truth, so the Code may be properly applied, due process permits “nothing less.” There is no acceptable level of unfairness, no permissible slight of the search.

## Conclusion

In its Code of Ethics the family of Realtors® has been offered a farsighted vision of the profession as it could be and should be. This vision, however, must not be blurred by myopic applications of the Code for shortsighted gains at the expense of farsighted objectives. A Realtor® who serves the public serves himself by guaranteeing his future.

But neither must this vision, however clear, obscure the fact that the goals of the Code must be reached step by step, following the path of due process rather than the line of least resistance.

**To Realtors®, the Code of Ethics offers the lessons of hindsight, the guidance of foresight, and  
the understanding of insight—  
A Rare Gift of Vision.**

# Duties to Clients and Customers

## Article 1

### Basic Principle:

Protect and promote clients' interests while treating all parties honestly.

### Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

### Standard of Practice 1-1

REALTORS®, when acting as principals in a real estate transaction, remain obligated by the duties imposed by the Code of Ethics. (Amended 1/93)

### Standard of Practice 1-2

The duties imposed by the Code of Ethics encompass all real estate related activities and transactions whether conducted in person, electronically, or through any other means.

The duties the Code of Ethics imposes are applicable whether REALTORS® are acting as agents or in legally recognized non-agency capacities except that any duty imposed exclusively on agents by law or regulation shall not be imposed by this Code of Ethics on REALTORS® acting in non-agency capacities.

As used in this Code of Ethics, "client" means the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®'s firm has an agency or legally recognized non-agency relationship; "customer" means a party to a real estate transaction who receives information, services, or benefits but has no contractual relationship with the REALTOR® or the REALTOR®'s firm; "prospect" means a purchaser, seller, tenant, or landlord who is not subject to a representation relationship with the REALTOR® or REALTOR®'S firm; "agent" means a real estate licensee (including brokers and sales associates) acting in an agency relationship as defined by state law or regulation; and "broker" means a real estate licensee (including brokers and sales associates) acting as an agent or in a legally recognized non-agency capacity. (Adopted 1/95, Amended 1/07)

### Standard of Practice 1-3

REALTORS®, in attempting to secure a listing, shall not deliberately mislead the owner as to market value.

#### **Standard of Practice 1-4**

REALTORS®, when seeking to become a buyer/tenant representative, shall not mislead buyers or tenants as to savings or other benefits that might be realized through use of the REALTOR®'s services. (Amended 1/93)

#### **Standard of Practice 1-5**

REALTORS® may represent the seller/landlord and buyer/tenant in the same transaction only after full disclosure to and with informed consent of both parties. (Adopted 1/93)

#### **Standard of Practice 1-6**

REALTORS® shall submit offers and counter-offers objectively and as quickly as possible. (Adopted 1/93, Amended 1/95)

#### **Standard of Practice 1-7**

When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. Upon written request of a cooperating broker who submits an offer to the listing broker, the listing broker shall provide, as soon as practical, a written affirmation to the cooperating broker stating that the offer has been submitted to the seller/landlord, or a written notification that the seller/landlord has waived the obligation to have the offer presented. REALTORS® shall not be obligated to continue to market the property after an offer has been accepted by the seller/landlord. REALTORS® shall recommend that sellers/landlords obtain the advice of legal counsel prior to acceptance of a subsequent offer except where the acceptance is contingent on the termination of the pre-existing purchase contract or lease. (***Amended 1/20***)

#### **Standard of Practice 1-8**

REALTORS® acting as agents or brokers of buyers/tenants shall submit to buyers/tenants all offers and counter-offers until acceptance but have no obligation to continue to show properties to their clients after an offer has been accepted unless otherwise agreed in writing. REALTORS® acting as agents or brokers of buyers/tenants shall recommend that buyers/tenants obtain the advice of legal counsel if there is a question as to whether a pre-existing contract has been terminated. (Adopted 1/93, Amended 1/99)

#### **Standard of Practice 1-9**

The obligation of REALTORS® to preserve confidential information (as defined by state law) provided by their clients in the course of any agency relationship or non-agency relationship recognized by law continues after termination of agency relationships or any non-agency relationships recognized by law. REALTORS® shall not knowingly, during or following the termination of professional relationships with their clients:

- 1) reveal confidential information of clients; or
- 2) use confidential information of clients to the disadvantage of clients; or
- 3) use confidential information of clients for the REALTOR®'s advantage or the advantage of third parties unless
  - a) clients consent after full disclosure; or
  - b) REALTORS® are required by court order; or
  - c) it is the intention of a client to commit a crime and the information is necessary to prevent the crime; or
  - d) it is necessary to defend a REALTOR® or the REALTOR®'s employees or associates against an accusation of wrongful conduct.

Information concerning latent material defects is not considered confidential information under this Code of Ethics. (Adopted 1/93, Amended 1/01)

### **Standard of Practice 1-10**

REALTORS® shall, consistent with the terms and conditions of their real estate licensure and their property management agreement, competently manage the property of clients with due regard for the rights, safety and health of tenants and others lawfully on the premises. (Adopted 1/95, Amended 1/00)

### **Standard of Practice 1-11**

REALTORS® who are employed to maintain or manage a client's property shall exercise due diligence and make reasonable efforts to protect it against reasonably foreseeable contingencies and losses. (Adopted 1/95)

### **Standard of Practice 1-12**

When entering into listing contracts, REALTORS® must advise sellers/landlords of:

- 1) the REALTOR®'s company policies regarding cooperation and the amount(s) of any compensation that will be offered to subagents, buyer/tenant agents, and/or brokers acting in legally recognized non-agency capacities;
  - 2) the fact that buyer/tenant agents or brokers, even if compensated by listing brokers, or by sellers/landlords may represent the interests of buyers/tenants; and
  - 3) any potential for listing brokers to act as disclosed dual agents, e.g. buyer/tenant agents.
- (Adopted 1/93, Renumbered 1/98, Amended 1/03)

### **Standard of Practice 1-13**

When entering into buyer/tenant agreements, REALTORS® must advise potential clients of:

- 1) the REALTOR®'s company policies regarding cooperation;
- 2) the amount of compensation to be paid by the client;
- 3) the potential for additional or offsetting compensation from other brokers, from the seller or landlord, or from other parties; and
- 4) any potential for the buyer/tenant representative to act as a disclosed dual agent, e.g. listing broker, subagent, landlord's agent, etc., and
- 5) the possibility that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties. (Adopted 1/93, Renumbered 1/98, Amended 1/06)

### **Standard of Practice 1-14**

Fees for preparing appraisals or other valuations shall not be contingent upon the amount of the appraisal or valuation. (Adopted 1/02)

### **Standard of Practice 1-15**

REALTORS®, in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, disclose the existence of offers on the property. Where disclosure is authorized, REALTORS® shall also disclose, if asked, whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker. (Adopted 1/03, Amended 1/09)

### **Standard of Practice 1-16**

REALTORS® shall not access or use, or permit or enable others to access or use, listed or managed property on terms or conditions other than those authorized by the owner or seller. (Adopted 1/12)

End of Article 1

## Narrative Explanation of Article 1

Article 1 establishes a balanced obligation to clients and customers. The *Code of Ethics and Arbitration Manual* defines “agent,” “client,” and “customer” as:

**Agent:** a real estate licensee acting in an agency relationship as defined by state law or regulation;

**Client:** the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®’s firm has an agency or legally recognized non-agency relationship;

**Customer:** a party to a real estate transaction who receives information, services, or benefits, but has no contractual relationship with the REALTOR® or the REALTOR®’s firm.

By entering into a contractual agreement to act as agents, REALTORS® are both legally and ethically obligated to the client to use their best efforts to accomplish the client’s objective, be it the sale, purchase, or lease of real property, or managing, counseling, syndicating, or other real estate related service. REALTORS® must be completely faithful to the client they have committed to serve. At the same time, a REALTOR® must also be honest with all parties to the transaction. If a REALTOR® is the agent of a seller, the REALTOR® nonetheless must be honest with buyers and cooperating brokers. If the REALTOR® is the agent of a prospective purchaser, the REALTOR® must also be honest with sellers and their agents by making his/her relationship with the buyer clearly known to all. If a REALTOR® leases property as the agent of the owner or landlord, the REALTOR® must be honest with the lessee and any other brokers involved in the transaction. Even when a REALTOR® is not acting as an agent, the REALTOR® remains obligated to treat all parties honestly. This has particular significance to REALTORS® engaging in appraising, counseling, facilitating, and other activities when a principal-agent relationship is not involved.

Remember that you are obligated under the Code of Ethics even when acting as a principal in a real estate transaction. (Refer to Standard of Practice 1-1)

Regardless of what capacity you are acting in (e.g., facilitator, transaction broker, etc...), you are obligated by the duties established in the Code of Ethics. (Refer to Standard of Practice 1-2)

Be forthright and honest when advising prospective sellers about the value of their property. (Refer to Standard of Practice 1-3)

When seeking to become a buyer or tenant representative, do not mislead buyers or tenants as to savings or other benefits that might be realized by using your services. (Refer to SOP 1-4)

REALTORS® may be dual agents but only after full disclosure to and with consent of both parties. (Refer to Standard of Practice 1-5)

Transmit all offers and counter-offers objectively to the seller and landlord as quickly as possible for the owner’s decision regardless of who produced the offer. (Refer to SOP 1-6 and 1-7)

REALTORS® as agents or brokers of buyers and tenants are not obligated to continue to show properties to their clients after an offer has been accepted unless agreed otherwise in writing. (Refer to Standard of Practice 1-8)

Remember that your obligation to preserve confidential information provided by your client continues after the termination of your agency relationship or non-agency relationship recognized by law. Latent material defects are not considered confidential. (Refer to Standard of Practice 1-9)

As a property manager, you must competently manage the property with regard for the rights, safety, and health of those lawfully on the premises. (Refer to Standard of Practice 1-10)

As a property manager, you must exercise due diligence and make reasonable efforts to protect the client’s property. (Refer to Standard of Practice 1-11)

When entering into listing contracts, you must advise sellers and landlords of 1) your general company policy regarding cooperation and compensation, 2) that buyer and tenant agents or brokers may represent the interests of the buyer or tenant even if compensated by you or the seller or landlord, and 3) any potential for you to act as a disclosed dual agent. (Refer to SOP 1-12)



When entering into buyer/tenant agreements, you must advise potential clients of 1) your general company policies regarding cooperation and compensation, and 2) any potential for you to act as a disclosed dual agent. (Refer to Standard of Practice 1-13)

When acting as the seller's agent, don't suggest an offering price other than the listed price unless instructed by the seller to do so. (Refer to Case Interpretation #1-1)

Inform buyers of pertinent and relevant facts that may affect their decision to purchase. (Refer to Case Interpretation #1-2)

Avoid net listing agreements. They create an unavoidable conflict with the client's best interests. (Refer to Case Interpretation #1-3)

As an agent, the best interests of your client must always come before any contemplated interest you or any member of your firm may have in the property. (Refer to Case Interpretations #1-4 & 1-21)

If you are the listing broker or subagent, refrain from suggesting to a buyer that a property is overpriced without the seller's authorization. (Refer to Case Interpretation #1-5)

Even when managing property, submit any offers to purchase received to the owner. (Refer to Case Interpretation #1-6)

Don't leave property unsecured or available for unsupervised inspection, even if vacant, without the knowledge and consent of the seller. (Refer to Case Interpretation #1-7)

Promptly deposit checks received on behalf of clients or inform them of any reason for not doing so. (Refer to Case Interpretation #1-8)

When attempting to list a property, determine whether the property is already listed with another broker. Before taking a second, concurrent listing, advise the client of the potential liability for multiple commissions. (Refer to Case Interpretation #1-9)

Advise your client promptly if you become convinced the client's property is overpriced. (Refer to Case Interpretation #1-10)

Don't put your interest in a brokerage commission ahead of your responsibilities to your clients even if the sale is made to a customer to whom you have shown the property but were unable to negotiate a sale. (Refer to Case Interpretation #1-11)

Remember that as an agent or subagent of the seller, you are required to submit all offers to the seller for the seller's consideration even after an offer has already been accepted, unless prohibited by state law or unless the listing contract specifically relieves you of this responsibility. (Refer to Case Interpretations #1-12 and #1-13)

As a subagent, never condition writing a purchase contract on the buyer's execution of a "pre-listing" agreement. (Refer to Case Interpretation #1-14)

Use your expertise as a real estate professional to advise your clients as to the market value of their homes, even where they claim to know what their properties are worth. (Refer to Case Interpretation #1-15)

Recommend that the client obtain an appraisal if you are unable to advise on the property's market value, either because of your lack of experience or your limited knowledge of the area or of the type of property. (Refer to Case Interpretations #1-16 and #1-22)

Never misuse a prospective client's personal opinion of the property's value to obtain a listing. Base your recommendation for an asking price on a thorough inspection of the property and a systematic review of comparable sales in the area. (Refer to Case Interpretation #1-17)

Be aware of pending or enacted changes in the zoning ordinances that may affect the market value or use of property listed by you. (Refer to Case Interpretation #1-19)

REALTORS® remain bound by the obligations of the Code of Ethics even when dealing among themselves as principals. (Refer to Case Interpretation #1-20)

## Article 2

### **Basic Principle:**

Avoid exaggeration, misrepresentation or concealment of pertinent facts relating to the property or the transaction.

## **Article 2**

REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. (Amended 1/00)

### **Standard of Practice 2-1**

REALTORS® shall only be obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in those areas required by their real estate licensing authority. Article 2 does not impose upon the REALTOR® the obligation of expertise in other professional or technical disciplines. (Amended 1/96)

### **Standard of Practice 2-2**

(Renumbered as Standard of Practice 1-12 1/98)

### **Standard of Practice 2-3**

(Renumbered as Standard of Practice 1-13 1/98)

### **Standard of Practice 2-4**

REALTORS® shall not be parties to the naming of a false consideration in any document, unless it be the naming of an obviously nominal consideration.

### **Standard of Practice 2-5**

Factors defined as “non-material” by law or regulation or which are expressly referenced in law or regulation as not being subject to disclosure are considered not “pertinent” for purposes of Article 2. (Adopted 1/93)

*End of Article 2*

## **Narrative Explanation of Article 2**

Article 2 guarantees faithful service to both clients and customers as consumers of services.

Article 2 protects the consumer by ensuring that the REALTOR® provides accurate, factual information without exaggeration; that the REALTOR® communicates truthfully and does not misrepresent the facts; and that the REALTOR® does not remain silent concerning pertinent facts including adverse factors affecting the property. As a real estate professional, the REALTOR® is obligated to discover and disclose adverse factors apparent to someone with the REALTOR®'s level of expertise, but is not required to discover and disclose latent (hidden) defects in property or to advise clients or customers on matters requiring specialized knowledge and training not required by the state licensing authority or in the REALTOR®'s area of expertise.

The REALTOR® is not expected to possess knowledge or skills generally attributable to specialists in other fields such as architects, structural engineers, soils experts, etc. Nor is the REALTOR® obligated to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. The necessity to safeguard the confidence of clients must be respected unless there is some superseding ethical obligation or legal duty.

Remember that you are obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in the real estate profession, but that you are not required to provide expert advice on matters involving specialized knowledge or training outside the scope of your real estate license. In such cases, advise your clients and customers to use the services of appropriate experts. (Refer to Standard of Practice 2-1)

Avoid naming a false consideration in any document unless it is an obviously nominal consideration. (Refer to Standard of Practice 2-4 and Case Interpretations #2-10 and #2-11)

Factors defined or expressly referenced in law or regulation as “non-material” or as not being subject to disclosure are not considered “pertinent” for purposes of Article 2. (See Standard of Practice 2-5)

Be truthful and accurate concerning property for which you are responsible. If any inaccuracy occurs, act promptly to remedy the matter to the best of your ability. (Refer to Case Interpretation #2-1)

Remember that you are responsible for the statements and actions of those licensed with you. (Refer to Case Interpretations #2-2 and #2-9)

When acting as the listing broker, faithfully represent to prospective purchasers information provided by the sellers, unless you have reason to suspect that the information is not accurate. (Refer to Case Interpretations #2-3 and #2-4)

Be familiar with the requirements of law and regulations that may affect a purchaser’s use of property and suggest that the advice of experts be sought, if the situation warrants. (Refer to Case Interpretation #2-5)

Make no guarantees regarding the future value of property unless you are prepared to make good your guarantee. (Refer to Case Interpretation #2-6)

Remember that the public relies on your superior knowledge of the real estate market. Avoid “guesses” which may be misconstrued as facts by those relying on you. (See Case Interpretation #2-7)

Failure to accurately disclose pertinent information cannot be excused by the use of a “disclaimer of accuracy.” (Refer to Case Interpretation #2-8)

Avoid actions or statements which may convey the impression that you are a member of an institute, society, or council of the National Association, unless you hold such membership. (Refer to Case Interpretation #2-12)

REALTORS® remain bound by the obligations of the Code of Ethics even when dealing among themselves as principals. (Refer to Case Interpretation #2-13)

Promptly communicate any change in the amount of cooperating broker compensation being offered prior to the time the cooperating broker has a signed offer to purchase in hand. (Refer to Case Interpretation #2-14)

The obligation to “avoid misrepresentation or concealment of pertinent facts” also requires REALTORS® to provide tribunals of their Board with information on the activities of other REALTORS® which may have violated Article 2. (Refer to Case Interpretation #2-15)

Disclose the source of information that you provide to a client or a customer if you are unable to independently verify its accuracy. (Refer to Case Interpretation #2-17). Inform buyers of pertinent and relevant facts that may affect their decision to purchase. (Refer to Case Interpretation #2-18)

## Article 3

### **Basic Principle:**

Cooperate with other real estate professionals to advance their clients' best interest.

### **Article 3**

REALTORS® shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker. (Amended 1/95)

#### **Standard of Practice 3-1**

REALTORS®, acting as exclusive agents or brokers of sellers/landlords, establish the terms and conditions of offers to cooperate. Unless expressly indicated in offers to co-operate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation. Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation. (Amended 1/99)

#### **Standard of Practice 3-2**

Any change in compensation offered for cooperative services must be communicated to the other REALTOR® prior to the time that REALTOR® submits an offer to purchase/lease the property. After a REALTOR® has submitted an offer to purchase or lease property, the listing broker may not attempt to unilaterally modify the offered compensation with respect to that cooperative transaction. (Amended 1/14)

#### **Standard of Practice 3-3**

Standard of Practice 3-2 does not preclude the listing broker and cooperating broker from entering into an agreement to change cooperative compensation. (Adopted 1/94)

#### **Standard of Practice 3-4**

REALTORS®, acting as listing brokers, have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements (i.e., listings where one amount of commission is payable if the listing broker's firm is the procuring cause of sale/lease and a different amount of commission is payable if the sale/lease results through the efforts of the seller/landlord or a cooperating broker). The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. (Amended 1/02)

#### **Standard of Practice 3-5**

It is the obligation of subagents to promptly disclose all pertinent facts to the principal's agent prior to as well as after a purchase or lease agreement is executed. (Amended 1/93)

#### **Standard of Practice 3-6**

REALTORS® shall disclose the existence of accepted offers, including offers with unresolved contingencies, to any broker seeking cooperation. (Adopted 5/86, Amended 1/04)

### **Standard of Practice 3-7**

When seeking information from another REALTOR® concerning property under a management or listing agreement, REALTORS® shall disclose their REALTOR® status and whether their interest is personal or on behalf of a client and, if on behalf of a client, their relationship with the client. (Amended 1/11)

### **Standard of Practice 3-8**

REALTORS® shall not misrepresent the availability of access to show or inspect a listed property. (Amended 11/87)

### **Standard of Practice 3-9**

REALTORS® shall not provide access to listed property on terms other than those established by the owner or the listing broker. (Adopted 1/10)

### **Standard of Practice 3-10**

The duty to cooperate established in Article 3 relates to the obligation to share information on listed property, and to make property available to other brokers for showing to prospective purchasers when it is in the best interests of the seller. (Adopted 1/11)

### **Standard of Practice 3-11**

REALTORS® may not refuse to cooperate on the basis of a broker's race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. (Adopted 1/20)

*End of Article 3*

## **Narrative Explanation of Article 3**

Article 3 obligates REALTORS® to cooperate with their competitors on mutually agreed upon terms when it is in the best interest of the client. This obligation promotes harmonious teamwork by competitors to the benefit of buyers/tenants and sellers/lessors. The real estate market is best served when individuals with a variety of skills and resources work together. Cooperation optimizes the benefits available to clients and customers, as well as agents and their subagents. Cooperation ensures sellers and lessors of the broadest possible market exposure. Through cooperation, brokers are able to enhance the market exposure of listed property and their ability to serve the needs of prospective purchasers and tenants.

Compensation in cooperative transactions should be agreed upon by the listing and cooperating brokers prior to the time the cooperating broker begins efforts to accept the offer of cooperation. (Refer to Standard of Practice 3-1)

Promptly communicate any change in the amount of compensation being offered prior to the time the cooperating broker produces an offer to purchase or lease the property. (Refer to Standard of Practice 3-2 and Case Interpretation #2-14)

Listing brokers and cooperating brokers may enter into an agreement to change the cooperative compensation after the cooperating broker produces an offer to purchase or lease the property if both REALTORS® agree to the change. (Refer to Standard of Practice 3-3)

As a listing broker or buyer/tenant representative, as soon as practical, disclose the existence of a dual or variable rate commission arrangement. (Refer to Standard of Practice 3-4)

Where a dual commission arrangement exists, the REALTOR®, as listing broker, must disclose the existence of the "special arrangement," and must indicate, in response to an inquiry from a potential cooperating broker, the differential that would result in the total commission in a cooperative transaction or in a sale that results through the efforts of the seller. (Refer to Standard of Practice 3-4 and Case Interpretations #3-8 and #3-9)

As a subagent, immediately advise the listing broker of all pertinent facts you discover concerning a property or prospective purchaser either before or after a contract is executed. (Refer to Standard of Practice 3-5)

Disclose the existence of an accepted offer to brokers seeking to cooperate on your listing. (Refer to Standard of Practice 3-6)

Disclose your REALTOR® or licensed status when seeking information about a property from another REALTOR® concerning property under a management or listing agreement. (Refer to Standard of Practice 3-7)

Avoid misrepresenting the availability of property listed with your firm. (Refer to Standard of Practice 3-8)

Recognize the agency of listing brokers and make all arrangements to show property through them unless they grant you specific authority to deal directly with their clients. (Refer to Case Interpretation #3-1)

As a subagent, do not negotiate directly with the listing broker's client unless you have been authorized to do so by the listing broker. (Refer to Case Interpretation #3-2)

Cooperation should be extended as a normal professional practice unless there is an overriding reason to withhold it. (Refer to Case Interpretation #3-3)

Cooperate in the sale of listed property unless you have valid reason for believing that cooperation would not further the best interests of your client or the client instructs you to withhold cooperation. Be prepared to justify your refusal to cooperate if you are charged with an arbitrary refusal to cooperate. (Refer to Case Interpretations #3-3, #3-4, and #3-6)

Realize that under certain circumstances a REALTOR® may legitimately withhold cooperation when it is not in the client's best interest or when the REALTOR® is dealing as a principal. (Refer to Case Interpretations #3-4 and #3-5)

Promptly communicate any change in the amount of subagency compensation being offered prior to the time the subagent has a signed offer to purchase in hand. (Refer to Case Interpretation #3-7)

Recognize that listing brokers must disclose the existence of dual and variable commission arrangements and must, in response to questions from cooperating brokers, disclose the compensation differential resulting from a cooperative transaction versus one brought about through the listing broker's efforts. (Refer to Case Interpretation #3-8)

Recognize that "special" or "side" deals may be dual or variable commission arrangements that must be disclosed pursuant to Standard of Practice 3-4. (Refer to Case Interpretation #3-9)

## Article 4

### **Basic Principle:**

When buying or selling on their own account or for their families or firms, REALTORS® will make their true position or ownership interest known.

### **Article 4**

REALTORS® shall not acquire an interest in or buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making their true position known to the owner or the owner's agent or broker. In selling property they own, or in which they have any interest, REALTORS® shall reveal their ownership or interest in writing to the purchaser or the purchaser's representative. (Amended 1/00)

### **Standard of Practice 4-1**

For the protection of all parties, the disclosures required by Article 4 shall be in writing and provided by REALTORS® prior to the signing of any contract. (Adopted 2/86) End of Article 4

### **Narrative Explanation of Article 4**

Article 4 prohibits the REALTOR® from buying, presenting offers, or selling property owned by the REALTOR®, or in which the REALTOR® has any interest, without making full disclosure of the ownership or interest to the buyer or seller or their agent or representative.

This prohibition applies not only to buying and selling by the REALTOR®, but also any member of the REALTOR®'s immediate family, firm, or any entity in which the REALTOR® has any ownership interest.

"Immediate family" includes "in-laws" because, at least in some instances, the transaction may benefit the REALTOR® in the future. A purchase or sale for the REALTOR®'s firm or any member thereof must be disclosed because it can be reasonably presumed that an individual will tend to favor the interests of business colleagues over the interests of strangers. Any entity in which the REALTOR® has any ownership interest is included to ensure that the buyer or seller or respective agents will be fully informed, in advance, of the REALTOR®'s position and interest in the transaction.

Written disclosure of any present or contemplated interest, direct or indirect, that you have in a property must be given to buyers and sellers or their respective agents before entering into any contracts involving the property. (Refer to Standard of Practice 4-1 and Case Interpretation #4-6)

Be sure your client (seller) understands your position when you intend to acquire any interest in listed property. (Refer to Case Interpretation #4-1)

Even when the need to disclose a remote "indirect" interest is questionable, full disclosure is preferable since it avoids possible appearance of impropriety. (Refer to Case Interpretation #4-2)

Disclose in writing the fact that an offer is being presented on behalf of a family member, including in-laws. (Refer to Case Interpretation #4-3)

Be aware that REALTORS® have responsibility for ensuring that individuals licensed with the REALTOR® disclose the fact that an offer is being presented on behalf of a family member. (Refer to Case Interpretation 4-4)

As an agent, the best interests of your client must always come before any contemplated interest you may have in the property. (Refer to Case Interpretation #4-5)

## Article 5

### **Basic Principle:**

Do not provide professional services where you have a present or contemplated interest in the property, without disclosing that interest to all affected parties.

### **Article 5**

REALTORS® shall not undertake to provide professional services concerning a property or its value where they have a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

*End of Article 5*

### **Narrative Explanation of Article 5**

Article 5 protects the public by requiring REALTORS to disclose any present or contemplated interest they may have in a property for which they are undertaking to provide professional services.

These services include buying, selling, leasing, appraising, managing, counseling, and other real estate related services.

Article 5 prevents REALTORS from using their professional knowledge to gain an unfair advantage in a real estate transaction.

REALTORS should remain aware that even indirect interests may obscure their objectivity and jeopardize the quality of their service. Such indirect interests could include interest in adjoining property, or could relate to transactions involving relatives or business associates. REALTORS must be alert and utilize care in any real estate transaction that could be seen as benefiting them either directly or indirectly.

When appraising a property disclose any current or contemplated interest you may have in the property to your client before accepting the assignment. (refer to Case Interpretation #5-1)



## Article 6

### Basic Principle:

Do not accept any commission, rebate or profit on expenditures made for their client, without the client's knowledge and consent.

### Article 6

REALTORS® shall not accept any commission, rebate, or profit on expenditures made for their client, without the client's knowledge and consent.

When recommending real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.), REALTORS® shall disclose to the client or customer to whom the recommendation is made any financial benefits or fees, other than real estate referral fees, the REALTOR® or REALTOR®'s firm may receive as a direct result of such recommendation. (Amended 1/99)

### Standard of Practice 6-1

REALTORS® shall not recommend or suggest to a client or a customer the use of services of another organization or business entity in which they have a direct interest without disclosing such interest at the time of the recommendation or suggestion. (Amended 5/88)

*End of Article 6*

### Narrative Explanation of Article 6

Article 6 protects clients and customers from conflicts of interest by the REALTOR® by requiring advance disclosure of the REALTOR®'s connection or interest in any organization or business entity before the REALTOR® recommends such services or products. Many REALTORS® have interests in service firms, including contracting, roofing, brickwork, plumbing, electrical, air conditioning, title insurance, home owner's insurance, pest control, moving, etc. The REALTOR® is not precluded from offering such services, and it should be noted that such services may be among the best available. But, to recommend such services without first disclosing the REALTOR®'s interest, making it clear that the clients and customers are free to obtain these services elsewhere, can raise suspicion and create the appearance of impropriety.

Article 6 also prevents the REALTOR® from benefiting directly or indirectly from the providers of such goods or services without the client's prior knowledge and consent. Remember to disclose when you or your firm will receive any fee or will benefit directly from recommending a real estate service or product to a client or customer. Advise clients and customers about any direct or indirect interests you have in businesses or organizations to which you refer them. (Refer to Standard of Practice 6-1) Don't profit from your client's expenditures without the client's prior knowledge and consent. (Refer to Case Interpretation #6-1) Be sure your client is aware of any use of the client's property which may result in a benefit or profit to you. (Refer to Case Interpretation #6-2) Exercise caution when dealing in matters that may be inconsistent with your client's interests. Try to avoid potentially conflicting situations. (Refer to Case Interpretation #6-3) Don't accept rebates or other considerations from those providing goods or services to your client without your client's prior knowledge and consent. (Refer to Case Interpretation #6-4)

## Article 7

### **Basic Principle:**

In a transaction, REALTORS® shall not accept compensation from more than one party, without disclosure to all parties and the informed consent of their clients.

### **Article 7**

In a transaction, REALTORS® shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties and the informed consent of the REALTOR®'s client or clients. (Amended 1/93)

*End of Article 7*

### **Narrative Explanation of Article 7**

Article 7 imposes an ethical obligation that may go beyond the requirements of state law. A REALTOR® may never accept compensation from more than one party without the informed consent of all parties. Only through adequate prior disclosure can the parties be fully aware of any potential conflicts of interest that may affect their ability or willingness to rely on the objectivity of the REALTOR®'s advice and counsel.

Prior to representing both the buyer/tenant and the seller/landlord in the same transaction, you must disclose that fact to all parties and secure their agreement. (Refer to Case Interpretation #7-3)

## Article 8

### **Basic Principle:**

Keep entrusted funds of clients and customers in a special account in an appropriate financial institution, separated from your own funds.

### **Article 8**

REALTORS® shall keep in a special account in an appropriate financial institution, separated from their own funds, monies coming into their possession in trust for other persons, such as escrows, trust funds, clients' monies, and other like items.

*End of Article 8*

### **Narrative Explanation of Article 8**

REALTORS®, as fiduciaries, are in positions of trust. They must keep monies coming into their possession in trust funds, separate from their own funds.

Stated simply, REALTORS® must not commingle their firm's monies or their personal monies with money accepted in trust for others. Such money must be placed in a separate account to safeguard against its unauthorized use.

Never commingle funds entrusted to you with your personal funds. (See Case Interpretation #8-1)

Be aware that the Board may institute a complaint with the real estate commission based upon facts brought to light at an ethics hearing. (Refer to Case Interpretation #8-2)

## Article 9

### **Basic Principle:**

Assure that agreements are in writing with clear and understandable terms, and that all parties receive executed copies.

### **Article 9**

REALTORS®, for the protection of all parties, shall assure whenever possible that all agreements related to real estate transactions including, but not limited to, listing and representation agreements, purchase contracts, and leases are in writing in clear and understandable language expressing the specific terms, conditions, obligations and commitments of the parties. A copy of each agreement shall be furnished to each party to such agreements upon their signing or initialing. (Amended 1/04)

### **Standard of Practice 9-1**

For the protection of all parties, REALTORS® shall use reasonable care to ensure that documents pertaining to the purchase, sale, or lease of real estate are kept current through the use of written extensions or amendments. (Amended 1/93)

### **Standard of Practice 9-2**

When assisting or enabling a client or customer in establishing a contractual relationship (e.g., listing and representation agreements, purchase agreements, leases, etc.) electronically, REALTORS® shall make reasonable efforts to explain the nature and disclose the specific terms of the contractual relationship being established prior to it being agreed to by a contracting party. (Adopted 1/07)

*End of Article 9*

### **Narrative Explanation of Article 9**

To avoid any misunderstanding and to prevent future controversy, all contractual agreements should be in writing and should set forth, in detail, the understanding of each of the parties. This can substantially reduce questions relating to the terms of the listing agreements, offers to purchase, financing instruments, and other agreements and commitments.

Remember to use timely written extensions or amendments to purchase and sale contracts. (Refer to Standard of Practice 9-1)

# Duties to the Public

## Article 10

### **Basic Principle:**

Provide equal professional services to all clients and customers irrespective of race, color, religion, sex, handicap, familial status or national origin.

### **Article 10**

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. (Amended 1/14)

### **Standard of Practice 10-1**

When involved in the sale or lease of a residence, REALTORS® shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood nor shall they engage in any activity which may result in panic selling, however, REALTORS® may provide other demographic information. (Adopted 1/94, Amended 1/06)

### **Standard of Practice 10-2**

When not involved in the sale or lease of a residence, REALTORS® may provide demographic information related to a property, transaction or professional assignment to a party if such demographic information is (a) deemed by the REALTOR® to be needed to assist with or complete, in a manner consistent with Article 10, a real estate transaction or professional assignment and (b) is obtained or derived from a recognized, reliable, independent, and impartial source. The source of such information and any additions, deletions, modifications, interpretations, or other changes shall be disclosed in reasonable detail. (Adopted 1/05, Renumbered 1/06)

### **Standard of Practice 10-3**

REALTORS® shall not print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations or discrimination based on race, color, religion, sex, handicap, familial status, national origin sexual orientation or gender identity. (Amended 1/14)

### **Standard of Practice 10-4**

As used in Article 10 “real estate employment practices” relates to employees and independent contractors providing real-estate-related services and the administrative and clerical staff directly supporting those individuals. (Adopted 1/05, Renumbered 1/05 & 1/06)

*End of Article 10*

## **Narrative Explanation of Article 10**

The law prohibits discrimination in housing on the basis of race, color, religion, sex, handicap, familial status, or national origin.

Article 10 illustrates the REALTOR®’s commitment to fair housing. A charge alleging that a REALTOR® has violated a fair housing law may also form the basis of a charge alleging a violation of Article 10.

The REALTOR® can have nothing to do with any plan or agreement to discriminate on the basis of race, color, religion, sex, handicap, familial status, or national origin with respect to any real estate transaction.

To ensure strict compliance with fair housing laws, Boards of REALTORS® are authorized to require training in fair housing as a condition of continued membership and REALTORS® are encouraged to establish ongoing equal opportunity educational training programs for individuals in their firms.

Article 10 also calls on REALTORS® to refrain from discrimination in selecting and retaining employees and independent contractors who provide real estate-related services, and the administrative and clerical staff who support them.

Do not volunteer information on the racial, religious, or ethnic composition of any neighborhood and do not engage in any activity which may result in panic selling. When selling or renting any property, do not convey any preference, limitations, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin. (Refer to Standard of Practice 10-1)

Offer equal professional services to every client and customer regardless of their race, color, religion, sex, handicap, familial status, or national origin. (Refer to Case Interpretations #10-1 and #10-3)

Educate those affiliated with you to ensure that they provide equal professional service to all. (Refer to Case Interpretation #10-2)

Ensure that advertising campaigns and other marketing strategies cannot be construed as expressing a preference that a potential buyer be of a specific racial or ethnic group. (Refer to Case Interpretations #10-4 and #10-5)

# Article 11

## Basic Principle:

Be Knowledgeable and Competent in the fields of practice in which you ordinarily engage. Obtain assistance or disclose lack of experience if necessary.

## Article 11

The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. (Amended 1/10)

### Standard of Practice 11-1

When REALTORS® prepare opinions of real property value or price they must:

- 1) be knowledgeable about the type of property being valued.
- 2) Have access to the information and resources necessary to formulate an accurate opinion, and
- 3) Be familiar with the area where the subject property is located

unless lack of any of these is disclosed to the party requesting the opinion in advance.

When an opinion of value or price is prepared other than in pursuit of a listing or to assist a potential purchaser in formulating a purchase offer, the opinion shall include the following unless the party requesting the opinion requires a specific type of report or different date set:

- 1) identification of the subject property
- 2) date prepared
- 3) defined value or price
- 4) limiting conditions, including statements of purpose(s) and intended user(s)
- 5) any present or contemplated interest, including the possibility of representing the seller/landlord or buyers/tenants
- 6) basis for the opinion, including applicable market data
- 7) if the opinion is not an appraisal, a statement to that effect
- 8) disclosure of whether and when a physical inspection of the property's exterior was conducted
- 9) disclosure of whether and when a physical inspection of the property's interior was conducted
- 10) disclosure of whether the REALTOR® has any conflicts of interest. (Amended 1/14)

## **Standard of Practice 11-2**

The obligations of the Code of Ethics in respect of real estate disciplines other than appraisal shall be interpreted and applied in accordance with the standards of competence and practice which clients and the public reasonably require to protect their rights and interests considering the complexity of the transaction, the availability of expert assistance, and, where the REALTOR® is an agent or subagent, the obligations of a fiduciary. (Adopted 1/95)

## **Standard of Practice 11-3**

When REALTORS® provide consultive services to clients which involve advice or counsel for a fee (not a commission), such advice shall be rendered in an objective manner and the fee shall not be contingent on the substance of the advice or counsel given. If brokerage or transaction services are to be provided in addition to consultive services, a separate compensation may be paid with prior agreement between the client and REALTOR®. (Adopted 1/96)

## **Standard of Practice 11-4**

The competency required by Article 11 relates to services contracted for between REALTORS and their clients or customers; the duties expressly imposed by the Code of Ethics; and the duties imposed by law or regulation. (Adopted 1/02)

End of Article 11

## **Narrative Explanation of Article 11**

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any person engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

Article 11 is explicit in setting forth REALTORS®' responsibilities to refrain from attempting to provide service for which they are inadequately prepared. For example, if a REALTOR® as a residential broker with no commercial experience was asked to market a complex business property, the REALTOR® would be obligated to disclose to the client that the REALTOR® did not possess the experience and expertise to provide the requested service. In certain instances, a prospective client may value the general abilities and integrity of a particular REALTOR® and may insist on engaging that REALTOR®'s services despite the REALTOR®'s lack of experience and competency needed to undertake the assignment. In such a case, the REALTOR® may undertake the assignment if, having fully disclosed his lack of experience, the REALTOR® obtains assistance from someone competent in the field. The REALTOR® must fully inform the client as to whose assistance was utilized and the degree to which that person contributed to the assignment.

When preparing an opinion of property value or price other than in pursuit of a listing or to assist a purchaser in formulating an offer, make sure you identify the property; include the date prepared; include the defined value or price; provide limiting conditions, including statements of purpose(s) and intended user(s); disclose any present or contemplated interest, including the possibility of representing the seller/landlord or buyers/tenants; provide the basis for the opinion, including applicable market data; and provide, if the opinion is not an appraisal, a statement to that effect. (Refer to Standard of Practice 11-1) In real estate disciplines other than appraisal, REALTORS® are expected to comply with the standards of competence and practice which clients and the public reasonably require to protect their rights and interests. (Refer to Standard of Practice 11-2)

If you are providing consultive services to clients which involves advice or counsel for a fee (not a commission) be sure to provide any advice given in an objective manner and do not make the fee contingent on the substance of the information provided. A separate compensation may be paid with prior agreement between you and your client if you are providing brokerage or transaction services in addition to consultive services. (Refer to Standard of Practice 11-3) Disclose your lack of experience to the client before accepting any appraisal assignment outside your area of competency. (Refer to Case Interpretations #11-1 and #11-4)

Identify in appraisal reports the names of any individuals or firms that provide assistance enabling you to prepare the report unless the information is general in nature. (Refer to Case Interpretations #11-2 and #11-3) Don't accept an appraisal assignment for which you are not qualified unless you disclose your lack of experience to the client and obtain qualified assistance. (Refer to Case Interpretation #11-5) Consider all pertinent factors when making an appraisal. (Refer to Case Interpretation #11-6) Decline any appraisal assignment where your employment or your fee is contingent upon the amount of the appraisal. (Refer to Case Interpretation #11-7) Remember that you must avoid conflicts of interest (e.g., listing and appraising the same property in a transaction) which might prevent you from acting as a disinterested third party rendering an unbiased appraisal, review, or consulting service. (Refer to Case Interpretation #11-10)



## Article 12

### Basic Principle:

Be careful at all times to present a true picture in your advertising and representations to the public.

## Article 12

REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional. (Amended 1/08)

### Standard of Practice 12-1

Unless they are receiving no compensation from any source for their time or services, REALTORS® may use the term “free” and similar terms in their advertising and in other representations only if they clearly and conspicuously disclose:

- 1) by whom they are being, or expect to be, paid;
- 2) the amount of the payment or anticipated payment;
- 3) any conditions associated with the payment, offered product or service, and;
- 4) any other terms relating to their compensation. (Amended 1/20)

### Standard of Practice 12-2

(Deleted 1/20)

### Standard of Practice 12-3

The offering of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease is not, in itself, unethical even if receipt of the benefit is contingent on listing, selling, purchasing, or leasing through the REALTOR® making the offer. However, REALTORS® must exercise care and candor in any such advertising or other public or private representations so that any party interested in receiving or otherwise benefiting from the REALTOR®'s offer will have clear, thorough, advance understanding of all the terms and conditions of the offer. The offering of any inducements to do business is subject to the limitations and restrictions of state law and the ethical obligations established by any applicable Standard of Practice. (Amended 1/95)

### Standard of Practice 12-4

REALTORS® shall not offer for sale/lease or advertise property without authority. When acting as listing brokers or as subagents, REALTORS® shall not quote a price different from that agreed upon with the seller/landlord. (Amended 1/93)

### Standard of Practice 12-5

REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or listed property in any medium (e.g., electronically, print, radio, television, etc.) without disclosing the name of REALTOR®'s firm in a reasonable and readily apparent manner either in the advertisement or in electronic advertising via a link to a display with all required disclosures. (Amended 1/16)

### **Standard of Practice 12-6**

REALTORS®, when advertising unlisted real property for sale/lease in which they have an ownership interest, shall disclose their status as both owners/landlords and as REALTORS® or real estate licensees. (Amended 1/93)

### **Standard of Practice 12-7**

Only REALTORS® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have “sold” the property. Prior to closing, a cooperating broker may post a “sold” sign only with the consent of the listing broker. (Amended 1/96)

### **Standard of Practice 12-8**

The obligation to present a true picture in representations to the public includes information presented, provided, or displayed on REALTORS® websites. REALTORS® shall use reasonable efforts to ensure that information on their websites is current. When it becomes apparent that information on a REALTOR®’s website is no longer current or accurate, REALTORS® shall promptly take corrective action. (Adopted 1/07)

### **Standard of Practice 12-9**

REALTOR® firm websites shall disclose the firm’s name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of REALTORS® and non-member licensees affiliated with a REALTOR® firm shall disclose the firm’s name and that REALTOR®’s or non-member licensee’s state(s) of licensure in a reasonable and readily apparent manner. (Adopted 1/07)

### **Standard of Practice 12-10**

REALTORS® obligation to present a true picture in their advertising and representations to the public includes Internet content, images, *and* the URLs and domain names they use, and prohibits REALTORS® from:

- 1) engaging in deceptive or unauthorized framing of real estate brokerage websites;
- 2) manipulating (e.g., presenting content developed by others) listing content in any way that produces a deceptive or misleading result;
- 3) deceptively using metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic;
- 4) presenting content developed by others without either attribution or without permission, or
- 5) otherwise misleading consumers, including use of misleading images. (Adopted 1/07, Amended 01/18)

### **Standard of Practice 12-11**

REALTORS® intending to share or sell consumer information gathered via the Internet shall disclose that possibility in a reasonable and readily apparent manner. (Adopted 1/07)

### **Standard of Practice 12-12**

REALTORS® shall not:

- 1) use URLs or domain names that present less than a true picture, or;
- 2) register URLs or domain names which, if used, would present less than a true picture. (Adopted 1/08)

### **Standard of Practice 12-13**

The obligation to present a true picture in advertising, marketing, and representations allows REALTORS® to use and display only professional designations, certifications, and other credentials to which they are legitimately entitled. (Adopted 1/08)

End of Article 12

## Narrative Explanation of Article 12

In marketing properties, REALTORS® use advertising to inform the public about listings and to induce interest in them. REALTORS® are obligated to present a “true picture” in their advertising and in all representations to the public. A “true picture” is truthful, accurate advertising, and nothing less. Descriptions that go beyond “puffing” may mislead the public. Statistics indicating a REALTOR®’s sales volume and comparisons with other firms can be impressive, but if they are inaccurate, untrue, or misleading, their use injures the public and violates Article 12.

REALTORS® must always disclose their status as real estate professionals in their advertisements. This may be accomplished by including the terms “REALTOR®,” “REALTORS®,” or “REALTOR-ASSOCIATE®,” or by disclosing their status as a licensed broker, appraiser, property manager, or other real estate professional.

In advertising listed property, REALTORS® must also disclose the name of their firm so that the public will be aware that they are dealing with the property owner’s agent. Further, the REALTOR® must ensure that all brokers and salespeople affiliated with the firm include the firm’s name in their advertisements of listed properties.

When advertising unlisted property in which the REALTOR® has any ownership interest, the advertisement must disclose the interest and the existence of membership or real estate licensure.

Services and products should be described as “free” or “free of charge” only when all terms governing availability are clearly disclosed at the same time as when the “free” product or service is offered. (Refer to Standard of Practice 12-1 and Case Interpretations #12-7 and #12-10)

You may represent your services as “free” or without cost even if you expect to receive compensation from a source other than your client provided that the potential for you to obtain a benefit from a third party is clearly disclosed at the same time. (Refer to Standard of Practice 12-2)

If you offer incentives to list, sell, purchase, or lease property, be sure the terms and conditions of your offer are clear and readily understandable. (Refer to Standard of Practice 12-3)

Obtain the client’s permission to advertise the client’s property. Never advertise listed property at a price other than that agreed to by the client. (Refer to Standard of Practice 12-4)

All advertisements of listed property must include the name of your firm. (Refer to SOP 12-5)

When acting as a principal in the sale or lease of your own property, disclose your status as a REALTOR® or as a licensee so that prospective purchasers or tenants will be aware of your special knowledge and expertise. (Refer to Standard of Practice 12-6 and Case Interpretation #12-8)

Only listing brokers or cooperating (selling) brokers have the right to advertise that they “sold” the property. Either the listing broker or the cooperating broker may claim to have “sold” the property upon acceptance of a purchase offer by the seller. However, prior to closing, a cooperating broker may only post a “sold” sign with the consent of the listing broker. (Refer to Standard of Practice 12-7 and Case Interpretations #12-11, #12-12, and #12-13)

Remember that “For Sale” signs are a form of advertising subject to the requirements of Article 12. (Refer to Case Interpretation #12-1)

Avoid exaggeration and dishonesty in your advertisements. Strive to present a “true picture.” (Refer to Case Interpretations #12-2, #12-3, and #12-4)

Advertising claims should not be based upon uncertain or unpredictable factors over which you have little or no control. (Refer to Case Interpretation #12-4)

While a “sold” sign may be placed on a property when an offer to purchase has been accepted, it should be removed if the transaction falls through. (Refer to Case Interpretation #12-5)

Don’t mislead the public into believing they can save money by purchasing from you if that is not the case. (Refer to Case Interpretation #12-6) and Avoid false advertising. (Refer to Case Interpretation #12-9)

“Linking” to other Internet websites, even if those sites include listings of other real estate professionals, does not constitute advertising of the type contemplated by Article 12. (Refer to Case Interpretation #12-15)

You cannot copy information from the Internet websites of other real estate professionals and publish it on your website without the listing broker’s permission even if the information on your website identifies the listing broker. (Refer to Case Interpretation #12-16).

## Article 13

### **Basic Principle:**

Do not engage in the unauthorized practice of the law.

### **Article 13**

REALTORS® shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction requires it.

*End of Article 13*

### **Narrative Explanation of Article 13**

The REALTOR® is prohibited by the law and by the Code from engaging in the unauthorized practice of law. The REALTOR® has an affirmative obligation to recommend the use of legal counsel to clients and customers when their interests require it.

If the REALTOR® is also an attorney, Article 13 would not preclude the offering of legal services in a manner consistent with the standards of the Bar Association. However, REALTORS® must be mindful of their agency relationship and the duties owed to clients and to customers, and must avoid all conflicts of interest.

Article 13 encourages respect for the law and protects clients and customers from well-intended but potentially misguided “legal advice” from those unqualified to provide it.

Refrain from any activities that could be construed as the unauthorized practice of law. (Refer to Case Interpretation #13-1)

Even when standard form contracts are utilized, questions concerning the meaning or effect of any provision should be addressed to competent legal counsel. (Refer to Case Interpretation #13-2)

Advise clients and customers to seek legal review of any contractual agreement where, in your judgment, the client or customer needs legal guidance. (Refer to Case Interpretation #13-3)

Avoid expressions of opinion which may be misconstrued as a definitive legal opinion. (Refer to Case Interpretation #13-3)

## Article 14

### **Basic Principle:**

Be a willing participant in Code Enforcement procedures.

### **Article 14**

If charged with unethical practice or asked to present evidence or to cooperate in any other way, in any professional standards proceeding or investigation, REALTORS® shall place all pertinent facts before the proper tribunals of the Member Board or affiliated institute, society, or council in which membership is held and shall take no action to disrupt or obstruct such processes. (Amended 1/99)

#### **Standard of Practice 14-1**

REALTORS® shall not be subject to disciplinary proceedings in more than one Board of REALTORS® or affiliated institute, society or council in which they hold membership with respect to alleged violations of the Code of Ethics relating to the same transaction or event. (Amended 1/95)

#### **Standard of Practice 14-2**

REALTORS® shall not make any unauthorized disclosure or dissemination of the allegations, findings, or decision developed in connection with an ethics hearing or appeal or in connection with an arbitration hearing or procedural review. (Amended 1/92)

#### **Standard of Practice 14-3**

REALTORS® shall not obstruct the Board's investigative or professional standards proceedings by instituting or threatening to institute actions for libel, slander or defamation against any party to a professional standards proceeding or their witnesses based on the filing of an arbitration request, an ethics complaint, or testimony given before any tribunal. (Adopted 11/87, Amended 1/99)

#### **Standard of Practice 14-4**

REALTORS® shall not intentionally impede the Board's investigative or disciplinary proceedings by filing multiple ethics complaints based on the same event or transaction. (Adopted 11/88)

*End of Article 14*

## Narrative Explanation of Article 14

The Code of Ethics is meaningful because it is respected and enforced. Article 14 establishes an absolute obligation to cooperate with the Board when charged with unethical practice, or when asked to present evidence in any professional standards proceeding or investigation. In either event the REALTOR® must place all pertinent facts before a proper tribunal.

REALTORS® are required to take an active part in Code enforcement. If this were not so, the Code would lose its relevance and influence in promoting and enforcing high standards of professional conduct.

Boards must provide due process in professional standards proceedings, as well as in enforcement of the Board's bylaws, and other rules and regulations. Due process requires as much factual support as can be reasonably ascertained to substantiate violations of the Code or arbitration awards or failure to abide by other membership obligations. With fairness established in the Board's procedures, and with the facts in hand, the Board can respect and protect the rights of all its members while strictly enforcing the Code.

If, in connection with a professional standards proceeding or an investigation, a REALTOR® is requested by the Board to answer a charge or to appear as a witness, the REALTOR® must do so, and must take no action to disrupt or obstruct such processes.

A REALTOR® may not be subject to disciplinary proceedings before more than one Board, or affiliated institute, society, or council in which the REALTOR® holds membership, for alleged violations of the Code of Ethics relating to the same transaction. (Refer to Standard of Practice 14-1)\*

Avoid unnecessary discussions of the details of any hearing, appeal, or review. (Refer to Standard of Practice 14-2)

A REALTOR® may not attempt to frustrate the Board's disciplinary or investigative processes by filing or threatening to file suits against parties to the proceeding or their witnesses alleging slander, libel, or defamation based on the filing of an ethics complaint or an arbitration request. (Refer to Standard of Practice 14-3)

\*Also see Professional Standards Policy Statement 42, Previously dismissed ethics complaints/arbitration requests, *Code of Ethics and Arbitration Manual*.

REALTORS® should not attempt to obstruct or disrupt the investigative or disciplinary proceedings of a Board by filing multiple ethics complaints based on the same transaction. (Refer to Standard of Practice 14-4)

Cooperate with those charged with enforcing the Code by providing requested information to any duly authorized tribunal in accordance with the Board's procedures. (Refer to Case Interpretation #14-1)

Respond fully and accurately to questions from professional standards panel members. (Refer to Case Interpretation #14-2)

Remember that you may be required to respond to charges of unethical conduct, regardless of who is the complainant. (Refer to Case Interpretation #14-3)

# Duties to REALTORS®

## Article 15

### Basic Principle:

Ensure that your comments about other real estate professionals are truthful, and not misleading.

### Article 15

REALTORS® shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices. (Amended 1/92, 1/12)

#### Standard of Practice 15-1

REALTORS® shall not knowingly or recklessly file false or unfounded ethics complaints. (Adopted 1/00)

#### Standard of Practice 15-2

The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses, and their business practices includes the duty to not knowingly or recklessly publish, repeat, retransmit, or republish false or misleading statements made by others. This duty applies whether false or misleading statements are repeated in person, in writing, by technological means (e.g., the Internet), or by any other means. (Adopted 1/07, Amended 1/12)

#### Standard of Practice 15-3

The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses, and their business practices includes the duty to publish a clarification about or to remove statements made by others on electronic media the REALTOR® controls once the REALTOR® knows the statement is false or misleading. (Adopted 1/10, Amended 1/12)

End of Article 15

### Narrative Explanation of Article 15

Article 15 logically flows from the REALTOR®'s duty established in Article 12 "to present a true picture in . . . representations." This includes comparisons with other real estate professionals and comments or opinions offered about other real estate professionals.

Article 15 is not intended to limit or inhibit the free flow of commercial information that is often of value to potential users of the many and varied services that REALTORS® provide. Article 15 requires that REALTORS® make good faith efforts to ensure that statements and representations they make, including those made in their advertising, are truthful and accurate.

REALTORS® should consider that while truthfulness is the ultimate measuring stick of Article 15, little is gained, and often much is lost, through negative, non-constructive criticism which can impair the cooperative efforts that make the service provided by REALTORS® so valuable to the public.

## Article 16

### **Basic Principle:**

Respect the agency relationships and other exclusive relationships recognized by law, that other REALTORS® have with their clients.

## **Article 16**

REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients. (Amended 1/04)

### **Standard of Practice 16-1**

Article 16 is not intended to prohibit aggressive or innovative business practices which are otherwise ethical and does not prohibit disagreements with other REALTORS® involving commission, fees, compensation or other forms of payment or expenses. (Adopted 1/93, Amended 1/95)

### **Standard of Practice 16-2**

Article 16 does not preclude REALTORS® from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another REALTOR®. A general telephone canvass, general mailing or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed “general” for purposes of this standard. (Amended 1/04)

Article 16 is intended to recognize as unethical two basic types of solicitations:

First, telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another REALTOR®; and

Second, mail or other forms of written solicitations of prospects whose properties are exclusively listed with another REALTOR® when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, “for sale” or “for rent” signs, or other sources of information required by Article 3 and Multiple Listing Service rules to be made available to other REALTORS® under offers of subagency or cooperation. (Amended 1/04)

### **Standard of Practice 16-3**

Article 16 does not preclude REALTORS® from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers’ exclusive agreements. However, information received through a Multiple Listing Service or any other offer of cooperation may not be used to target clients of other REALTORS® to whom such offers to provide services may be made. (Amended 1/04)



#### **Standard of Practice 16-4**

REALTORS® shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the REALTOR®, refuses to disclose the expiration date and nature of such listing; i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the REALTOR® may contact the owner to secure such information and may discuss the terms upon which the REALTOR® might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing. (Amended 1/94)

#### **Standard of Practice 16-5**

REALTORS® shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by a REALTOR®, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the REALTOR® may contact the buyer/tenant to secure such information and may discuss the terms upon which the REALTOR® might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement. (Adopted 1/94, Amended 1/98)

#### **Standard of Practice 16-6**

When REALTORS® are contacted by the client of another REALTOR® regarding the creation of an exclusive relationship to provide the same type of service, and REALTORS® have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. (Amended 1/98)

#### **Standard of Practice 16-7**

The fact that a prospect has retained a REALTOR® as an exclusive representative or exclusive broker in one or more past transactions does not preclude other REALTORS® from seeking such prospect's future business. (Amended 1/04)

#### **Standard of Practice 16-8**

The fact that an exclusive agreement has been entered into with a REALTOR® shall not preclude or inhibit any other REALTOR® from entering into a similar agreement after the expiration of the prior agreement. (Amended 1/98)

#### **Standard of Practice 16-9**

REALTORS®, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service. (Amended 1/04)

#### **Standard of Practice 16-10**

REALTORS®, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease. (Amended 1/04)

#### **Standard of Practice 16-11**

On unlisted property, REALTORS® acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. (Amended 1/04)

REALTORS® shall make any request for anticipated compensation from the seller/landlord at first contact. (Amended 1/98)

### **Standard of Practice 16-12**

REALTORS®, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. (Amended 1/04)

### **Standard of Practice 16-13**

All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, REALTORS® shall ask prospects whether they are a party to any exclusive representation agreement. REALTORS® shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. (Adopted 1/93, Amended 1/04)

### **Standard of Practice 16-14**

REALTORS® are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. (Amended 1/98)

### **Standard of Practice 16-15**

In cooperative transactions REALTORS® shall compensate cooperating REALTORS® (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other REALTORS® without the prior express knowledge and consent of the cooperating broker.

### **Standard of Practice 16-16**

REALTORS®, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. (Amended 1/04)

### **Standard of Practice 16-17**

REALTORS® acting as subagents or as buyer/tenant representatives or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. (Amended 1/04)

### **Standard of Practice 16-18**

REALTORS® shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. (Amended 1/02)

### **Standard of Practice 16-19**

Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord. (Amended 1/93)

### **Standard of Practice 16-20**

REALTORS®, prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude REALTORS® (principals) from establishing agreements with their associated licensees governing assignability of exclusive agreements. (Adopted 1/98) (Amended 1/10) End of Article 16

## Narrative Explanation of Article 16

Competition among brokers to provide appraising, brokerage, managing, leasing, syndicating, or counseling services is extremely intense until the prospective client enters into a binding agreement for such services. When an exclusive relationship is created, the competition shifts to the search for buyers or to otherwise fulfill the agreement. At this point Article 16 comes into play.

Once clients have selected a particular broker to serve their interests, the competition that prevailed earlier ceases and cooperation takes its place. Cooperation between REALTORS® is the normal professional practice that is contemplated when it is in the best interest of the client. Generally, cooperation exists in great measure, since it benefits the clients and customers in virtually every case. REALTORS® must carefully avoid taking any action inconsistent with the exclusive relationship between the seller and the listing broker and avoid any action that could be construed to induce a breach of the contractual agreement made with the client. The client has made a decision and is entitled to the benefit of his or her bargain. This includes relief for the duration of the relationship from direct overtures of other REALTORS® seeking to interest the seller or lessor in the services they provide. This limited protection from direct solicitation does not preclude general advertising efforts by other REALTORS®, but does prohibit efforts to induce the breach of an existing contract so that another REALTOR® can substitute himself in the place of the current listing broker.

In the case of an exclusive listing, to respect the exclusivity of the listing broker's relationship, other REALTORS® must be able to determine with certainty that an exclusive listing exists. If the listing broker refuses to disclose the nature (type) and duration of a listing, Article 16 recognizes the REALTOR®'s right to contact the seller or lessor directly to obtain this essential information. Under these circumstances, the REALTOR® may also discuss the terms of a future listing on the property or may enter into a listing to become effective upon the expiration of the current listing.

Article 16 also acknowledges the right of property owners whose properties are listed exclusively to contact other REALTORS® if they are not satisfied with the listing broker's performance. A REALTOR® is free to discuss the terms of a future listing on the property and may enter into a listing to become effective upon the expiration of the current listing if the discussion and contact were initiated by the property owners.

Actions inconsistent with the exclusive relationship of the listing broker can occur when a REALTOR® provides unauthorized information to a prospective purchaser or tenant. It can occur when a cooperating broker fails to obtain permission to show the property from the listing broker, but contacts the owner directly. It can occur when a cooperating broker takes an offer directly to the client without the knowledge and consent of the listing broker. It can occur when a cooperating broker uses the showing of a property as an opportunity to make unsolicited, derogatory remarks about the listing broker that are untrue.

REALTORS® are obligated to respect the agency, or other exclusive relationships recognized by law, of other REALTORS® and to work through them as long as the exclusive relationship remains in effect. Professionalism, integrity, and courtesy require it and buyers/tenants and sellers/lessors benefit from it.

Aggressive, innovative marketing practices are not inherently unethical, but any business practice must comply with the other requirements imposed by the Code. (Refer to Standard of Practice 16-1)

Recognize that Article 16 does not prohibit general advertising, including telephone canvassing, mailings, or distributions to all property owners in a given area or to all members of a class, organization, or group, even though one or more of the recipients may currently be party to an exclusive listing agreement. (Refer to Standard of Practice 16-2 and Case Interpretations #16-3 and #16-9)

A REALTOR® is not prohibited from offering to provide unrelated services to the client of another REALTOR®. (Refer to Standard of Practice 16-3)

When another REALTOR® requests information from you concerning one of your listings, you are encouraged to disclose the type of listing you have and its expiration date so that the other REALTOR® can avoid an inadvertent interference in your relationship with your client. If, for any reason, you choose not to share that information, you should be aware that your refusal will entitle the other REALTOR® to obtain it directly from your client and to discuss the terms of a future listing with the client or to take a listing to become effective

upon the expiration of any current listing. (Refer to Standard of Practice 16-4 and Case Interpretations #16-7 and #16-10)

When another REALTOR® requests information from you concerning one of your buyers/tenants who is subject to an exclusive buyer/tenant agreement, you are encouraged to disclose the type of agreement you have and its expiration date so that the other REALTOR® can avoid an inadvertent interference in your relationship with your client. If you choose not to share that information, you should be aware that your refusal will entitle the other REALTOR® to directly obtain the information from your client and discuss the terms of any future buyer/tenant agreement to become effective upon expiration of any existing exclusive buyer/tenant agreement. (Refer to Standard of Practice 16-5)

Recognize that if the discussion is initiated by the property owner, a REALTOR® may discuss taking a future listing on a property currently listed exclusively with another REALTOR® and may take a listing to become effective upon the expiration of the current listing. (Refer to Standard of Practice 16-6)

Be aware that a client's prior selection and use of a REALTOR® in previous transactions cannot prevent other REALTORS® from trying to obtain that individual's future business. (Refer to Standard of Practice 16-7)

Understand that once a listing has expired, other REALTORS® are free to solicit the listing. (Refer to Standard of Practice 16-8 and Case Interpretation #16-5)

Before accepting a listing, use your best efforts to make sure the property is not already currently listed on an exclusive basis with another broker. (Refer to Standard of Practice 16-9)

If you are acting as the agent of, or in another relationship with, buyers or tenants, you must disclose that fact to the listing broker the first time you contact the listing broker, such as when making an appointment to show the property. (Refer to Standard of Practice 16-10)

Advise the seller or landlord at your first contact if you are acting as a buyer's or tenant's agent or broker and the property is unlisted. (Refer to Standard Practice 16-11)

At the first practical opportunity, disclose to buyers/tenants that you are acting on behalf of the seller/landlord or subagent of the listing broker. (Refer to Standard of Practice 16-12)

When you are aware that a principal has retained an exclusive agent or broker, deal through that agent or broker, and not directly with the principal except when the agent or broker has authorized direct contact unless the client has initiated dealings with you. (Refer to Standard of Practice 16-13 and Case Interpretations #16-13 and 16-14)

Before you exclusively list or lease a property which is not currently listed or leased with another broker on an exclusive basis, you have an obligation to advise the client of the potential liability for multiple commissions. (Refer to Standard of Practice 16-14)

Be aware of your obligation to compensate the cooperating broker (principal) in a cooperative transaction rather than any sales licensees affiliated with the cooperating broker without the prior express knowledge and consent of the cooperating broker. (Refer to Standard of Practice 16-15)

Do not use the terms of an offer to purchase or lease, or the threat of withholding an executed offer to purchase or lease, to attempt to obtain additional compensation from the listing broker. (Refer to Standard of Practice 16-16)

Obtain permission from the listing broker before giving information on the broker's listings to another broker. (Refer to Standard of Practice 16-17)

Obtain the listing broker's consent before using information about the listing broker's listing to create a referral prospect or a buyer prospect. (Refer to Standard of Practice 16-18 and Case Interpretation #16-8)

Obtain the client's consent before placing signs for sale, rent, or lease on property. (Refer to Standard of Practice 16-19)

Prior to or after terminating your relationship with your current firm, do not induce clients of that firm to cancel exclusive contractual agreements between the client and that firm. (Refer to Standard of Practice 16-20)

Avoid inviting cooperation by a third broker without the consent of the listing broker. (Refer to Case Interpretation #16-1)

While unintentional contact with another REALTOR®'s client is not unethical, subsequent contacts prior to the expiration of the other REALTOR®'s listing can be unethical. (Refer to Case Interpretation #16-2)

Don't put your interest in a brokerage commission ahead of your responsibilities to your clients, even if the sale is made to a customer to whom you have shown the property but were unable to negotiate a sale. (Refer to Case Interpretation #16-4)

Determine the amount of subagency compensation being offered before commencing your efforts as a subagent. Do not try to modify the amount offered by making the subagency compensation an integral term of an offer to purchase. (Refer to Case Interpretation #16-6)

Be aware that general advertisements by other REALTORS® do not violate the exclusive relationship of the listing broker when not directed towards the owner of the particular property listed. (Refer to Case Interpretation #16-9)

When acting as the agent or broker of a buyer, do not suggest or recommend that the buyer use the terms of a purchase offer to attempt to modify the terms and conditions of the listing broker's contract with the seller. (Refer to Case Interpretation #16-11)

As the buyer's agent or broker, you can suggest or recommended that your client ask the seller to pay some or all of your commission. (Refer to Case Interpretation #16-12)

## Article 17

### **Basic Principle:**

In the event of disputes between REALTORS® associated with different firms or with their clients, REALTORS® agree to submit the dispute to arbitration.

### **Article 17**

In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, arising out of their relationship as REALTORS®, the REALTORS® shall mediate the dispute if the Board requires its members to mediate. If the dispute is not resolved through mediation, or if mediation is not required, REALTORS® shall submit the dispute to arbitration in accordance with the policies of the Board rather than litigate the matter.

In the event clients of REALTORS® wish to mediate or arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall mediate or arbitrate those disputes in accordance with the policies of the Board, provided the clients agree to be bound by any resulting agreement or award.

The obligation to participate in mediation and arbitration contemplated by this Article includes the obligation of REALTORS® (principals) to cause their firms to mediate and arbitrate and be bound by any resulting agreement or award. (Amended 1/01, 1/12)

### **Standard of Practice 17-1**

The filing of litigation and refusal to withdraw from it by REALTORS® in an arbitrable matter constitutes a refusal to arbitrate. (Adopted 2/86)

### **Standard of Practice 17-2**

Article 17 does not require REALTORS® to mediate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to mediate through the Board's facilities. The fact that all parties decline to participate in mediation does not relieve REALTORS® of the duty to arbitrate.

Article 17 does not require REALTORS® to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board. (Amended 1/93, 1/12)

### **Standard of Practice 17-3**

REALTORS®, when acting solely as principals in a real estate transaction, are not obligated to arbitrate disputes with other REALTORS® absent a specific written agreement to the contrary. (Adopted 1/96)

### **Standard of Practice 17-4**

Specific non-contractual disputes that are subject to arbitration pursuant to Article 17 are:

- 1) Where a listing broker has compensated a cooperating broker and another cooperating broker subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance, the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopt 1/97, Amended 1/07)

- 2) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance, the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the under-lying cooperative transaction. (Adopted 1/97, Amended 1/07)
- 3) Where a buyer or tenant representative is compensated by the buyer or tenant and, as a result, the listing broker reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97)
- 4) Where two or more listing brokers claim entitlement to compensation pursuant to open listings with a seller or landlord who agrees to participate in arbitration (or who requests arbitration) and who agrees to be bound by the decision. In cases where one of the listing brokers has been compensated by the seller or landlord, the other listing broker, as complainant, may name the first listing broker as respondent and arbitration may proceed between the brokers. (Adopted 1/97)

### **Standard of Practice 17-5**

The obligation to arbitrate established in Article 17 includes disputes between REALTORS® (principals) in different states in instances where, absent an established inter-association arbitration agreement, the REALTOR® (principal) requesting arbitration agrees to submit to the jurisdiction of, travel to, participate in, and be bound by any resulting award rendered in arbitration conducted by the respondent(s) REALTOR'S® association, in instances where the respondent(s) REALTOR'S® association determines that an arbitrable issue exists. (Adopted 1/07)

End of Article 17

## Narrative Explanation of Article 17

Generally, arbitration is used to settle disputes between REALTOR® principals of two different real estate firms concerning entitlement to a commission or to cooperating brokers' compensation. Entitlement is determined on the basis of determining the "procuring cause." In most instances, the decision awards the disputed amount to one party or the other. In certain cases, and if not precluded by state law, the disputed amount may be divided between the parties if the arbitrators determine that both parties contributed, without interruption, to the successful transaction.

Article 17 also requires a REALTOR® to arbitrate disputes with clients, if the client requests the arbitration and agrees to be bound by the decision.

The Code of Ethics and Arbitration Manual advises Boards and State Associations to determine whether (1) state law authorizes prior agreements to arbitrate future disputes in advance of a dispute or only after the dispute occurs or (2) if state law does not recognize binding arbitration at all. In the latter case, Boards can only offer arbitration and cannot require REALTORS® and REALTOR-ASSOCIATES® to participate in it.

The Code of Ethics and Arbitration Manual also specifies three circumstances under which REALTORS® must submit to arbitration.

- (1) Arbitration of a dispute between REALTOR® principals of different firms.
- (2) Arbitration between REALTORS® (other than principals) or REALTOR-ASSOCIATES® in different firms, provided the REALTOR® principals join in the arbitration.
- (3) Arbitration between REALTOR® principals and their clients when the client or REALTOR® invokes the arbitration and the client agrees to be bound by the decision.

The Manual also specifies three circumstances under which the REALTOR'S® participation in arbitration is voluntary:

- (1) Arbitration between REALTOR® principals and REALTORS® and REALTOR-ASSOCIATES® (nonprincipals) who are or were affiliated with the same firm, provided each party voluntarily agrees to the arbitration in writing. This applies to disputes arising when the parties are, or were, affiliated with the same firm, irrespective of the time the request is made for such arbitration.
- (2) Arbitration between a REALTOR® principal with a nonmember broker, provided each party agrees in writing to be bound by the decision. However, it is the member's choice whether the member will submit to arbitration with a nonmember broker who is not an MLS Participant. A nonmember broker who is not an MLS Participant is not entitled to invoke the arbitration facilities of a Board of REALTORS®.
- (3) Arbitration between a REALTOR® principal and a customer if a written contractual relationship has been created by the REALTOR® principal between a customer and a client, and provided all parties to the dispute (i.e., the customer and the REALTOR®) agree in writing to arbitrate the dispute.

REALTORS® and REALTOR-ASSOCIATES® who participate in the Board's MLS or otherwise access MLS information through any Board in which they do not hold membership have the same rights and responsibilities as any Board member relative to the Code of Ethics.

For more detailed information on arbitration procedures, refer to the Code of Ethics and Arbitration Manual which includes Case Interpretations.

Remember that Article 17 requires REALTORS® to arbitrate their disputes. If you file suit against a REALTOR® when a properly arbitrable matter exists and refuse to withdraw the suit and participate in arbitration when requested, you may be subject to disciplinary action. (Refer to Standard of Practice 17-1 and Case Interpretation #17-1)

Parties to an otherwise arbitrable matter may agree not to use the Board's arbitration facility without becoming subject to a charge of violating Article 17 provided they advise the Board in writing of their decision. (Refer to Standard of Practice 17-2)

Under certain circumstances, REALTORS® are obligated to participate in interboard arbitration or in arbitration conducted by the State Association. (Refer to Case Interpretations #17-2 and #17-10)

Once a matter has been arbitrated by a Board of REALTORS®, neither party may initiate a second arbitration before a different Board based on the same issue. (Refer to Case Interpretation #17-3)

Have a clear understanding of your rights and obligations, related to arbitration, as established by Article 17 and your Board's procedures. (Refer to Case Interpretations #17-4, 17-5, 17-6, 17-9 & 11)

The obligation to arbitrate disputes does not eliminate the right to report violations of the law to the appropriate authorities. (Refer to Case Interpretation #17-7)

REALTORS® cannot disclaim their personal obligations under Article 17 by asserting that the transaction was consummated through their corporation. (Refer to Case Interpretation #17-8)

REALTORS®, when acting solely as principals in a real estate transaction, are not obligated to arbitrate disputes with other REALTORS® absent a specific written agreement to the contrary. (Refer to Standard of Practice 17-3 and Case Interpretations #17-12 and #17-13)





## Is a listing agent obligated to confirm that an offer has been presented?

Will Martin, Martin & Gifford, PLLC - 01/17/2019

**QUESTION:** I submitted an offer for a buyer client of mine on another REALTOR®'s listing three days ago. Although I have left several voicemail messages on the listing agent's cell phone, I haven't heard anything back yet and my client and I are both anxious. I know that the Real Estate Commission's rules say that the offer has to be presented within three days, but is the listing agent is required to confirm with me that my client's offer has been presented?

**ANSWER:** Yes, if you request confirmation in writing. Although the Real Estate Commission's rules don't require an agent to confirm presentation of an offer, effective January 1, 2019, Standard of Practice 1-7 of the REALTOR® Code of Ethics was revised to provide that a listing agent must, upon the written request of a cooperating agent who submits an offer to the listing agent, provide a written affirmation to the cooperating agent stating that the offer has been submitted to the seller (or landlord). Failure to provide written affirmation would subject the listing agent to potential discipline by his or her local association of REALTORS® for violating Article 1 of the Code of Ethics.

You correctly note in your question that [Real Estate Commission Rule 58A.0106](#) requires a listing agent to present an offer to the seller within three days. Failure to do so could subject the listing agent to discipline by the Commission. An agent's failure to timely present an offer could also subject him or her to discipline by his or her local association of REALTORS® for violating Article 1 of the Code of Ethics, as illustrated by Standard of Practice 1-6. Standard of Practice 1-6 provides that "REALTORS® shall submit offers and counter-offers objectively and as quickly as possible."

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## Statements of Professional Standards Policy Applicable to Ethics Proceedings

### 45. Publishing the names of Code of Ethics violators

Associations may, as a matter of local discretion, adopt one of the following options authorizing the publication of the names of ethics violators, subject to the following qualifications:

#### Publication Option #1:

- Publication can only occur after a second violation occurs within three (3) years.
- Ethics citation discipline is not included in the violation count unless the association has affirmatively authorized publication within their citation policy.
- Publication can only be made in an official communication vehicle intended primarily for members of the Association(s) in which the violator holds (held) membership. Where the official communication vehicle is electronic or Internet-based, access must be limited to Association members.
- The name of the firm the violator is (or was) licensed with cannot be published.
- Publication must be consistent and uniform. This means that publication may not occur selectively but must be used in each instance where a second violation is determined within three (3) years.
- Other than the violator's name, the only additional information that may be published is the Article (or Articles) violated, and the discipline imposed, except that in cases where the violator's name is similar to another member's name, the violator's license number or office address (or both) may also be published. (Amended 11/99)
- At least one of the violations must be based on conduct which occurs after the adoption of these procedures. (Adopted 2/99)

Associations may adopt Publication Option #1 and may increase the timeframe with which publication occurs for certain discipline, the content of the publication to include photos or a description of the violation(s), or any combination thereof, only to the extent that is permissible under Publication Option #2. Any program that exceeds the scope of Publication Option #1, as defined above, must include local or state association legal counsel review of the decision, discipline, and information to be published.

#### Publication Option #2:

- Publication can occur in all instances in which violators are disciplined with a letter of reprimand, a fine (ethics citation fines are not included in publications unless the association has affirmatively adopted policy to include them), a suspension, and/or an expulsion.
- Prior to publication, local or state association legal counsel must review the decision, discipline, and information to be published.
- Publication can only be made in an official communication vehicle intended primarily for members of the Association(s) in which the violator holds (held) membership. Where the official communication vehicle is electronic or internet-based, access must be limited to Association members.
- The name of the firm the violator is (or was) licensed with cannot be published.
- Publication must be consistent and uniform. This means that publication may not occur selectively but must be used in each instance where the discipline imposed meets the Association's publication criteria.
- Other than the violator's name and a photo of the violator, the only additional information that may be published is the Article(s) violated, a description of the violation(s) with all names redacted except for the name of the violator, and the discipline imposed, except that in cases where the violator's name is similar to another member's name, the violator's license number or office address (or both) may also be published.
- Publication must be based on conduct which occurs after the adoption of the Association's publication procedures. (Revised 05/18)

## Section Four: Case Studies

North Carolina Case Study regarding

### **Procuring Cause vs. Agency**

REALTOR® A had worked with prospective buyers, Joe and Mary Smith, off and on for a period of about two years. On two different occasions, the Smiths had signed an Exclusive Buyer Agency Agreement with REALTOR® A for a relatively short time period. In January, REALTOR® A suggested that the Smiths contact Lender X to determine an approximate loan amount for which they may qualify. Upon the suggestion of REALTOR® A, the Smiths met with Lender X and obtained the information they need to continue their home search.

Between mid-December and late-January, REALTOR® A met with the Smiths about a dozen times to see property. In mid-January, the Joe Smith ran into a builder acquaintance. The builder mentioned to Joe that he knew of a house for sale at 123 Lemon Lane, but the house was a little more expensive than the homes they were looking at. The builder subsequently took the Smiths to the home and showed it to them. On January 21<sup>st</sup>, after the Smiths mentioned the property to REALTOR® A, REALTOR® A accompanied the Smiths to the house at 123 Lemon Lane. They discussed the difference in price, but the Smiths felt they could make up the difference between the amount they were told they could borrow and the sum needed for down payment and settlement costs. At the request of the Smiths, REALTOR® A returned to the office to pull comps for the Lemon Lane area. REALTOR® A later emailed the information to the Smiths and they later conversed by phone to discuss the information.

On January 23<sup>rd</sup>, the Smiths informed REALTOR® A that they were scheduled to go out of town for a few days and that while away they would discuss the Lemon Lane house, as well as a few others that REALTOR® A had shown them. REALTOR® A told the Smiths that he would be available to show any of the homes they wanted to see [again] upon their return. It was at this time the Smiths mentioned that they had engaged in further conversation with the builder and another REALTOR®. REALTOR® A perceived that the Smiths felt that if a Buyer's Agent was not involved in the purchase of 123 Lemon Lane that they might receive a better deal. Following this conversation, the Smiths would not return any of REALTOR® A's phone calls.

REALTOR® A continued to leave messages for the Smiths, none of which were returned. Following no response from the Smiths, REALTOR® A contacted Lender X, who was surprised to learn that REALTOR® A was not aware that the Smiths had presented Lender X with a signed contract dated January 23<sup>rd</sup> for the home at 123 Lemon Lane.

Following consultation with REALTOR® A's Broker-in-Charge (BIC), and an unsuccessful attempt to resolve the situation with REALTOR® B, the listing firm of 123 Lemon Lane, shortly after the closing of the 123 Lemon Lane transaction REALTOR® A's BIC filed a request for arbitration with the Association of REALTORS® against REALTOR® B. REALTOR® B was asked to respond to the arbitration request, and he complied. Following consideration of the facts, as presented, the Grievance Committee decided to send the matter to the Professional Standards Committee for a hearing.

Do you think the disputed compensation should be retained by REALTOR® B or awarded to REALTOR® A?

## Case Study: Article 2

(Based on Case Interpretation #2-7)

- Avoid exaggeration, misrepresentation and concealment of pertinent facts about the property or the transaction
- But there is no obligation to discover latent defects, matters outside scope of license, or matters confidential under agency or non-agency relationships

Homebuilder REALTOR® Dean shows one of his newly constructed houses to Buyer Bert. Bert sees some kind of construction beginning nearby, and asks REALTOR® Dean about it. “I really don’t know,” says REALTOR® Dean, “but I believe it’s the attractive new shopping center planned for this area.”

Following Buyer Bert’s purchase of one of the houses, Buyer Bert learns that the “construction” actually is a bottling plant, and the area adjacent to it is zoned as “industrial”. Buyer Bert files a complaint with the board of REALTORS, charging REALTOR Dean with unethical conduct for failing to disclose a pertinent fact. He says in his complaint that, had he known about the proximity of the new bottling plant when he first saw the house, he would not have purchased it.

During the ethics hearing, REALTOR® Dean’s defense is that he honestly answered Bert’s question, because at the time, he had no knowledge about what was being built. All he knew was that other developers were planning an extensive shopping center somewhere in the general area, so he simply ventured a guess. REALTOR® Dean goes on to say that, as indicated in Buyer Bert’s testimony, he prefaced his response to Bert by saying he didn’t know the answer to Bert’s question.

### Questions

1. Is REALTOR® Dean in violation of Article 2?
  - A. No, because Dean prefaced his response by clearly saying that he didn’t know.
  - B. No, because Bert could have researched the new construction and zoning himself.
  - C. Yes, because Dean is obligated to discover and disclose adverse factors that are reasonably apparent to a licensed real estate professional.
  - D. Maybe, if the new construction was identified as a “non-material” fact in law or regulation.
2. How should REALTOR® Dean have responded when asked about the new construction?
  - A. Refer Bert to the developer.
  - B. Explain that although he didn’t know the answer, he would research it and get back to Bert.
  - C. Say he didn’t know the answer and leave it at that.
  - D. Advise Bert to wait and see if the construction is a shopping center or something else before submitting an offer.

## Case Study: Article 12

(Based on Case Interpretation #12-17)

- Be honest and truthful in real estate communications.
- Present a “true picture” in your advertising, marketing, and other representations.
- Ensure that your status as a real estate professional is readily apparent in your advertising, marketing, and other representations.

A principal broker of Tech-friendly Realty, REALTOR® Bob is technologically savvy and constantly looking for ways to use the Internet to promote his firm and drive additional traffic to his website. Being an early adapter to the Internet he registered, but did not use, several domain names that incorporated or played on the names of many of his competitors and their firms, including Top Notch, REALTORS®.

REALTOR® Bob and his information technology vendor recently came to the conclusion that one way to drive traffic to Tech-friendly Realty’s website is to take better advantage of the search engines commonly used by potential buyers and sellers. They determine that when potential buyers or sellers search on “real estate,” “REALTORS®,” or similar words, lists of related, registered domain names appear. So, REALTOR® Bob decides to activate some of the dormant domain names of his competitors, including the “topnotchREALTORS.com,” and use them to point consumers to his own website.

In a matter of days, REALTOR® Bob learns that he had been charged with a violation of Article 12 of the Code of Ethics by the owner of Top Notch, REALTORS®, REALTOR® Sally, who alleges that REALTOR® Bob’s use of the domain name “topnotchREALTORS.com” presents a false picture on the Internet to potential buyers and sellers.

During the hearing, REALTOR® Bob defends himself, by saying that in his opinion, using a domain name is not advertising or a representation to the public, but simply a convenient way for Internet users to find relevant Web sites. He goes on to say that, “When Web surfers reach my home page, there is no question, but that it’s my site, because it clearly displays Tech-friendly Realty’s name and status as a real estate firm.” He goes on to say that, “These complaints are just a lot of sour grapes from dinosaurs who don’t keep up with the times, and who don’t realize that on the Internet, it’s every man for himself.”

### Case #1 Questions

1. Which Standard of Practice applies to this situation?
  - A. Standard of Practice 12-9
  - B. Standard of Practice 12-10
  - C. Standard of Practice 12-11
  - D. Standard of Practice 12-12
2. Has REALTOR® Bob violated Article 12?
  - A. Yes.
  - B. No.
  - C. Only if using a domain name based on another firm’s name is precluded by law or regulation.
  - D. It depends on the disclosures and any other information displayed on REALTOR® Bob’s Web site.

# Analysis and Outcome

for  
North Carolina Case Study regarding  
**Procuring Cause vs. Agency**

At the hearing, REALTOR® B stated that an agent within their firm had also worked with the Smiths on several occasions. In December the Smiths met with REALTOR® B and they drove by 123 Lemon Lane. On December 22<sup>nd</sup>, the Smiths indicated they did not feel like they could afford the house and declined to go inside. REALTOR® B asked the Smiths if they had been working with another agent. The Smiths replied that they had been looking with “a friend”. When asked by REALTOR® B about the existence of any agreements between them [Smiths] and REALTOR® A, the Smiths replied that they had signed one for “only one day.”

REALTOR® B stated that the Smiths had called and advised them of the meeting with the builder at 123 Lemon Lane. The Smiths indicated they felt that the house was the best choice for them provided they could get the price reduced from \$255,000 to somewhere in the low \$250's. The Smiths noted that they had discussed this with the builder and that the builder felt that he could possibly reduce the price further. REALTOR® B told the Smiths that she had not had such a conversation with the builder but that she would call the builder. REALTOR® B also asked if she could share the Smith's financial position with the builder and the Smiths agreed.

REALTOR® B contacted the builder to discuss the matter. REALTOR® B told the builder that the Smiths felt they could afford a price in the low \$250 range. The builder replied that the Smiths had informed him that they were working with their office [the builder's office] exclusively, but he did not think they could afford to sell the house in the low \$250s. The next day the builder called REALTOR® B and stated that he would sell the house at 123 Lemon Lane for \$252,000 provided the Smiths close on or before the end of March. This price would include a builder paid commission of 2.5% to the listing firm – which is REALTOR® B's firm.

| Article 2: 1-C and 2-B |      |      |      |      |      |      |      |      |      | Article 12: 1-D and 2-A |      |      |      |      |      |      |      |      |      |
|------------------------|------|------|------|------|------|------|------|------|------|-------------------------|------|------|------|------|------|------|------|------|------|
| 23-T                   | 24-T | 25-T | 26-T | 27-T | 28-T | 29-F | 30-T | 31-T | 32-T | 11-F                    | 10-T | 9-F  | 8-T  | 7-T  | 6-T  | 5-F  | 4-T  | 3-T  | 2-T  |
| 12-F                   | 13-F | 14-T | 15-F | 16-F | 17-T | 18-F | 19-F | 20-F | 21-T | 22-F                    | 23-T | 24-T | 25-T | 26-T | 27-T | 28-T | 29-F | 30-T | 31-T |
| 1                      | 3    | 5    | 7    | 9    | 2    | 4    | 6    | 8    | 17   | 15                      | 13   | 11   | 16   | 14   | 12   | 10   |      |      |      |

REALTOR® B relayed the information to the Smiths, who said that the price was a lot better but they still were not sure they could afford the house. On January 24<sup>th</sup>, the Smiths went to see REALTOR® B and stated they were really interested in 123 Lemon Lane but felt they could only afford to pay \$250,000 for the house. The verbal offer was communicated to the builder and on the following day the builder accepted the \$250,000 offer. On the afternoon of January 25<sup>th</sup>, the Smiths signed a contract for 123 Lemon Lane with REALTOR® B. At the same time, a Buyer Agency Agreement was entered into between REALTOR® B, with an understanding and authorization for REALTOR® B to be a dual agent.

Following presentation of the evidence, documentation and testimony by the parties,  
the hearing panel awarded the entire commission to REALTOR® A.

# For the Good of All: The REALTOR® Code of Ethics

## The REALTOR'S® Code of Ethics – A Gift of Vision

The Code of Ethics of the National Association of REALTORS® represents one of those rare creations of man – a living document; a document which somehow preserves its significance, relevance and usefulness despite the passing of years and the changing of the times.

The Code is an unusual Gift of Vision: the vision of those who dreamed that the business of real estate could become a profession, the vision of those who believed that the search for the highest and best use of the land required the highest and best measures of professional responsibility, and the vision of those who recognized private ownership of the land as indispensable to political democracy and a free and prosperous citizenry.

It is this Gift of Vision which has enabled the Code to survive half a century of unprecedented social, political, economic, and legal change substantially unchanged.

The creators and keepers of the Code have realized that to remain relevant and useful, the Code must be a great deal more than simply a set of rules for the conduct of real estate transactions. To endure, the Code must be a criterion of excellence while at the same time constituting a realistic standard of performance. It must be a guide to measure professional conduct, while at the same time representing the furthest reach of professional aspiration. The Code must remain constant without becoming absolute, must be enforceable without being oppressive, and must be meaningful without being dogmatic.

The Code of Ethics has been able to meet all these needs and reconcile all these objectives for one reason only—the vision of its creators in adopting as the unifying rationale of the Code the Concept of Service to the Public.

Every Article of the Code is premised on this single concept. This single concept provides the philosophical basis by which each Article must be interpreted and applied. This single concept, by which the various Articles of the Code are rationalized, is the reason the Code has been and is a “living document.” “Service to the Public” is the “end” and the Code is the “means” to that end.

There is no idea which cannot be misapplied; no faith which cannot be exploited; no concept which cannot be abused; and no principle which cannot be perverted. For this reason, the integrity of the Code and the value of its vision of the real estate industry depends ultimately upon its use.

If it is applied inconsistently, it becomes arbitrary and hence oppressive. If it is applied without understanding, it becomes unreasonable and hence dogmatic. If it is used in ignorance, it becomes meaningless; if it is used inappropriately, it becomes irrelevant; and if it is used without moderation, it becomes irrational.

No Code of Ethics can long survive its misuse or misapplication. This is why the REALTORS® Code of Ethics must be applied with continuing and conscientious concern for procedural due process.

In its Code of Ethics the family of REALTORS® has been offered a farsighted vision of the profession as it could be and should be. This vision, however, must not be blurred by myopic applications of the Code for shortsighted gains at the expense of farsighted objectives. A REALTOR® who serves the public serves himself by guaranteeing his future.

But neither must this vision, however clear, obscure the fact that the goals of the Code must be reached step by step, following the path of due process rather than the line of least resistance.

To REALTORS®, the Code of Ethics offers the lessons of hindsight, the guidance of foresight, and the understanding of insight – A Rare Gift of Vision.

The foregoing are excerpts of an article written by William D. North,  
former NAR Executive Vice President & General Counsel.  
The article first appeared in the August 1978 edition of *The Executive Officer*

